

**Members are reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting**

**BIRMINGHAM CITY COUNCIL**

**LICENSING AND PUBLIC PROTECTION COMMITTEE**

**WEDNESDAY, 12 JULY 2017 AT 10:00 HOURS**  
**IN COMMITTEE ROOMS 3 & 4, COUNCIL HOUSE, VICTORIA**  
**SQUARE, BIRMINGHAM, B1 1BB**

**A G E N D A**

**1 NOTICE OF RECORDING/WEBCAST**

The Chairman to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site ([www.birminghamnewsroom.com](http://www.birminghamnewsroom.com)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

**2 APOLOGIES**

To receive any apologies.

**3 - 12**

**3 MINUTES**

To confirm and sign the minutes of the meeting held on 21 June 2017.

**4 LICENSING AND PUBLIC PROTECTION BUDGET MONITORING 2017/18 (MONTH 2)**

REPORT OF ACTING SERVICE DIRECTOR REGULATION AND ENFORCEMENT AND INTERIM CHIEF FINANCIAL OFFICER

**13 - 62**

**5 LICENSING AUTHORITY POLICIES, PROCEDURES AND DELEGATIONS**

REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

**63 - 74**

**6 PROPOSAL TO INTRODUCE QUALITY RATING SYSTEM FOR PRIVATE HIRE OPERATORS**

REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

- 75 - 92**      7      **ACCESS FOR WHEELCHAIR USERS TO TAXIS AND PRIVATE HIRE VEHICLES**  
REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
- 93 - 98**      8      **UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS**  
REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
- 99 - 120**      9      **HOUSE OF LORDS SELECT COMMITTEE ON THE LICENSING ACT 2003**  
REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
- 121 - 128**      10      **OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS TAKEN DURING MAY 2017**  
REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
- 129 - 142**      11      **FIXED PENALTY NOTICES ISSUED MAY AND JUNE 2017**  
REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
- 143 - 170**      12      **PROSECUTIONS AND CAUTIONS MAY 2017**  
REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
- 171 - 172**      13      **SCHEDULE OF OUTSTANDING MINUTES**  
To consider the schedule of Outstanding Minutes.
- 14      **OTHER URGENT BUSINESS**  
To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.
- 15      **AUTHORITY TO CHAIRMAN AND OFFICERS**  
Chairman to move:-  
  
'In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

## **BIRMINGHAM CITY COUNCIL**

<b>LICENSING AND PUBLIC PROTECTION COMMITTEE 21 JUNE 2017</b>
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**MINUTES OF A MEETING OF THE LICENSING  
AND PUBLIC PROTECTION COMMITTEE HELD  
ON WEDNESDAY 21 JUNE 2017 AT 1000  
HOURS IN COMMITTEE ROOMS 3 AND 4,  
COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:** - Councillor Barbara Dring in the Chair;

Councillors Nawaz Ali, Bob Beauchamp, Alex Buchanan, Liz Clements, Lynda Clinton, Ian Cruise, Des Flood, Carole Griffith, Nagina Kauser, Chaman Lal and Mike Leddy.

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**NOTICE OF RECORDING/WEBCAST**

- 851 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site ([www.birminghamnewsroom.com](http://www.birminghamnewsroom.com)) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

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**APOLOGIES**

- 852 Apologies were received from Councillors Basharat Dad, Changese Khan and Rob Sealey.

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**DECLARATIONS OF INTERESTS**

- 853 No declarations of interest were made.

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**APPOINTMENT OF LICENSING AND PUBLIC PROTECTION COMMITTEE**

The appointment by the City Council of the Committee and Chairman for the Municipal Year 2017/2018 was noted as follows:-

**Labour Group (11)**

Councillor Nawaz Ali  
Councillor Alex Buchanan  
Councillor Liz Clements  
Councillor Lynda Clinton  
Councillor Basharat Dad  
Councillor Barbara Dring (Chairperson)  
Councillor Carole Griffiths  
Councillor Nagina Kauser  
Councillor Changese Khan  
Councillor Chaman Lal  
Councillor Mike Leddy

**Conservative Group (3)**

Councillor Bob Beauchamp  
Councillor Des Flood  
Councillor Rob Sealey

**Liberal Democrat Group (0)**

**Independent (1)**

Councillor Ian Cruise

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**ELECTION OF DEPUTY CHAIR**

Only one nomination was put forward for Councillor Alex Buchanan and it was -

854 **RESOLVED:-**

That Councillor Alex Buchannan be appointed as Deputy Chair of the Committee for the Municipal Year 2017/18.

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**FUNCTIONS, POWERS AND DUTIES**

The following schedule was submitted:-

(See document No. 1)

855 **RESOLVED:-**

That the Committee's functions, powers and duties, as agreed by City Council and set out the attached schedule be noted.

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**DATES OF MEETINGS OF THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

856

**RESOLVED:-**

That meetings of the Licensing and Public Protection Committee be held on the following Wednesdays at 1000 hours at the Council House, Birmingham.

**2017**

12 July  
13 September  
18 October  
15 November  
13 December

**2018**

17 January  
14 February  
14 March  
18 April

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**LICENSING SUB-COMMITTEES 2017/2018**

It was noted that Councillor Ian Cruise represented the Longbridge Ward and not Bartley Green as indicated on the agenda.

The work of Members previously on the Sub-Committees was acknowledged.

857

**RESOLVED:-**

- (i) That the membership of Licensing Sub-Committee's A, B and C for the Municipal Year 2017/2018 be noted;
- (ii) that each Sub-Committee comprise 3 Members (with a quorum of 3) and that authority be given for each Sub-Committee to determine matters relating to the Licensing Act 2003, the Gambling Act 2005, Hackney Carriage Licences Private Hire Licences and such other business as maybe referred to then by the Director of Regulation and Enforcement; and
- (iii) that any Sub-Committee Member may appoint a nominee (substitute) from their own party group on the Licensing and Public Protection Committee to attend a meeting in their place.

**Licensing Sub-Committee A – Mondays (0930 hours)**

Councillor Barbara Dring (Chairman)	Lab	Oscott Ward
Councillor Nagina Kauser	Lab	Aston Ward
Councillor Bob Beauchamp	Con	Erdington Ward

**Licensing Sub-Committee B – Tuesdays (1000 hours)**

Councillor Lynda Clinton (Chairman)	Lab	Tyburn Ward
Councillor Nawaz Ali	Lab	South Yardley Ward
Councillor Des Flood	Con	Bartley Green Ward

**Licensing Sub-Committee C – Wednesdays (0930 hours)**

Councillor Alex Buchanan (Chairman)	Lab	Billesley Ward
Councillor Mike Leddy	Lab	Brandwood Ward
Councillor Ian Cruise	Ind	Longbridge Ward

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**MINUTES**

- 858 The Minutes of the meeting held on 12 April 2017, having been previously circulated were confirmed as a correct record and signed by the Chairman.
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**SCHEDULE OF NOMINATIONS TO SERVE ON OUTSIDE BODIES.**

The following schedule was submitted:-

(See document No. 2)

On receipt of nominations it was -

- 859 **RESOLVED:-**

That, subject to any necessary approval of the Cabinet, the following Members be appointed to serve on each of the Safety of Designated Sports Grounds – Advisory Groups listed below:-

**Aston Villa Football Club**

Councillors Bob Beauchamp, Ian Cruise, Des Flood, Roger Harmer, Tony Kennedy (Chairman), Mike Leddy and Mike Sharpe.

**Birmingham City Football Club**

Councillors Nawaz Ali, Randal Brew, Lynda Clinton (Chairman), Zafar Iqbal and Mike Ward.

**Warwickshire County Cricket Club**

Councillors Robert Alden, Neil Eustace, Mahmood Hussain, Nagina Kauser, Ewan Mackey, Majid Mahmood (Chairman) and Habib Rehman.

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**LICENSING AND PUBLIC PROTECTION – OUTTURN 2016/17**

The following report of the Acting Director of Regulation and Enforcement Assistant and the Interim Chief Financial Officer was submitted:-

(See Document No. 3)

Parmjeet Jassal, Head of City Finance - General Fund, made introductory comments relating to the report and indicated that in the table in paragraph 5.4 in relation to Licensing the figure in the 'Savings Programme' column should read 0.528 and the figure in the 'Base Budget' column should read 0.987. She responded appropriately to questions from Members of the Committee particularly in relation the saving targets.

860

**RESOLVED:-**

- (i) That the revenue outturn overspend of £1.244m as detailed in Appendix 1 be noted;
- (ii) that the delivery of the savings programme for 2016/2017 as detailed in Appendix 2 be noted;
- (iii) that the expenditure on grant funded programmes in Appendix 3 be noted;
- (iv) that the position on Capital expenditure, as detailed in Appendix 4 be noted; and
- (v) that the position on reserves and balances, as detailed in Appendix 5 be noted.

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**REGULATION AND ENFORCEMENT ANNUAL REPORT 2017/2018**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 4)

The Acting Director of Regulation and Enforcement made a PowerPoint presentation and undertook to circulate it to all Members. Officers made introductory comments relating to the report and responded appropriately to questions from Members of the Committee.

861

**RESOLVED:-**

That the report be noted.

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At 1121 hours the meeting was adjourned.

At 1132 hours the meeting was reconvened.

Councillor Bob Beauchamp did not return to the meeting having previously leaving it prior to the adjournment.

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**FOOD LAW ENFORCEMENT PLAN 2017/2018**

The following report of Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 5)

Nick Lowe, Operations Manager Food, made introductory comments relating to the report and responded appropriately to questions from Members of the Committee

862

**RESOLVED:-**

That the Food Law Enforcement Plan be agreed.

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**HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2017/2018**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 6)

Mark Croxford, Head of Environmental Health, made introductory comments relating to the report and responded appropriately to questions from Members of the Committee.

863

**RESOLVED:-**

That the report is noted and the Health and Safety Law Enforcement Plan for 2017/2018 be approved.

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**SEX ESTABLISHMENT POLICY PRE-CONSULTATION REPORT**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 7)

Emma Rohomon, Licensing Manager, made introductory comments relating to the report and responded appropriately to questions from Members of the Committee. She undertook to involve all Members of the City Council in the consultation and noted that safeguarding was already included.

864

**RESOLVED:-**

- (i) That Officers Commence the primary consultation process immediately; and
- (ii) that any responses to the Primary Consultation should be submitted to the Licensing Manager before 21 July 2017



**LICENSING FEES AND CHARGES, INCLUDING OBJECTION TO  
HACKNEY CARRIAGE AND PRIVATE HIRE FEES AND CHARGES**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 8)

Emma Rohomon, Licensing Manager, made introductory comments relating to the report and responded appropriately to questions from Members of the Committee.

During the debate Councillor Leddy expressed concern that drivers who had paid their fees from April, in particular those that had opted for a 3 year licence, would now lose out by this change and he indicated that he would not be supporting the recommendations. Emma Rohomon indicated that in February the fees had been agreed in principle and would have been implemented on the 1 April had there not been the objection from a2z Licensing.

The Chair put the recommendation in paragraph 2.1 to the meeting and, by 8 votes for to 2 votes against with one abstention, declared it carried.

The Chair put the recommendation in paragraph 2.2 to the meeting and, by 8 votes for to 1 vote against with one abstention, declared it carried.

865

**RESOLVED:-**

- (i) That resolution No. 810 (i) of this Committee dated 15 February 2017 insofar as it relates to the revised fees and charges in relation to Hackney Carriage and Private Hire fees be rescinded; and
- (ii) that officers calculate the proposed revised fees and charges as soon as reasonably practicable, having regard to the finalised accounts for 2016/2017 and also to the comments raised as objections to the previous proposed structure.

(Councillors Nawaz Ali, Alex Buchanan, Liz Clements, Lynda Clinton, Barbara Dring, Carole Griffiths, Nagina Kauser and Chaman Lal wished to be recorded as having voted for parts (i) and (ii) of the above resolution. Councillor Des Flood wished to be recorded as having voted against parts (i) and (ii) of the above resolution. Councillor Mike Leddy wished to be recorded as having voted against part (i) of the above resolution. Councillor Ian Cruise wished to be recorded as having abstained from voting in respect of parts (i) and (ii) of the above resolution.)

Councillor Mike Leddy withdrew from the meeting.

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**REPORT ON CHANGE OF LAW IN RELATION TO THE NEW RULES FOR  
NICOTINE-CONTAINING ELECTRONIC CIGARETTES AND REFILL  
CONTAINERS**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 9)

Sajeela Naseer, Head of Trading Standards made introductory comments relating to the report and responded appropriately to questions from Members of the Committee.

866

**RESOLVED:-**

- (i) That the report be noted and outstanding Minute No. 845 be discharged: and
- (ii) that the Acting Director of Regulation and Enforcement report on how 'Brexit' may affect the Committees work, especially around legislation that is currently European legislation and may have no effect after 'Brexit'.

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**ADDENDUM TO ENVIRONMENTAL HEALTH SERVICES PLAN 2017/2018  
TO INCLUDE FLYPOSTING ENFORCEMENT**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 10)

867

**RESOLVED:-**

That the report be noted and Outstanding Minute No. 835(ii) be discharged.

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**FIXED PENALTY NOTICES ISSUED MARCH AND APRIL 2017**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 11)

868

**RESOLVED:-**

That the report be noted

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**PROSECUTIONS AND CAUTIONS – MARCH AND APRIL 2017**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 12)

869

**RESOLVED:-**

That the report be noted

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**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:  
TAKEN DURING MARCH AND APRIL 2017**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 13)

870

**RESOLVED:-**

That the report be noted

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**ACTION TAKEN BY THE CHAIR OF THE LICENSING AND PUBLIC  
PROTECTION COMMITTEE DURING MAY 2017**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 14)

Chris Neville, Head of Licensing, made introductory comments relating to the report.

871

**RESOLVED:-**

That the report be noted.

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**SCHEDULE OF OUTSTANDING MINUTES**

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 14)

Officers updated the dates for which reports would be forthcoming in relation to various Outstanding Minutes and it was -

872

**RESOLVED:-**

That Outstanding Minute Nos. 835 (ii) and 845 be discharged and all other Outstanding Minutes be noted.

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**OTHER URGENT BUSINESS**

The Chairman was of the opinion that the following matters could be considered as matters of urgency in view of the need to expedite consideration thereof and instruct officers to act if necessary.

**Safeguarding Issue**

873

Councillor Des Flood expressed concern that there was a safeguarding issue around the fact that an appropriate adult could book a taxi for a child to travel alone giving the destination which could now be changed on route. He requested that this be looked at and Chris Neville, Head of Licensing, undertook to look in to this issue.

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**AUTHORITY TO CHAIRMAN AND OFFICERS**

874

**RESOLVED:-**

In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

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The meeting ended at 1312 hours.

.....  
CHAIRMAN

## **BIRMINGHAM CITY COUNCIL**

### **REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**12 JULY 2017**  
**ALL WARDS**

#### **LICENSING AUTHORITY POLICIES, PROCEDURES AND DELEGATIONS**

##### **1. Summary**

- 1.1 This report outlines the policies, procedures and delegations, which have been built up over a number of years in relation to licensing and registration issues, allowing the Licensing Authority to delegate the bulk of the administration associated with the licensing regime to be carried out by Officers.
- 1.2 It also ensures that the Committee itself acts in a manner which is as open and consistent as circumstances allow.
- 1.3 The report consolidates existing policy, procedures and delegations and updates those policies in line with current working practices.
- 1.4 The report also details the process followed in the event of an immediate suspension or revocation of a driver's licence. This is not a new process, but the documentation of an existing system for transparency.

##### **2. Recommendations**

- 2.1 That the Committee notes the policies approved by City Council:
  - relating to the Gambling Act 2005 and approved in 2016;
  - regarding Sexual Entertainment Venues and approved in 2014;
  - relating to the Licensing Act 2003 and approved in 2015.
- 2.2 That the Committee approves the Hackney Carriage and Private Hire Policy (including delegations) at Appendix 1.
- 2.3 That the Committee approves the General Licensing Policy (including delegations) at Appendix 2.

Contact Officer: Chris Neville, Head of Licensing  
Telephone: 0121 303 6111  
E-mail: [chris.neville@birmingham.gov.uk](mailto:chris.neville@birmingham.gov.uk)

### 3. Background

- 3.1 The City Council has a number of licensing, regulatory and registration powers and duties and the exercise of these powers and duties is delegated to the Licensing and Public Protection Committee. The granting and issuing of specific licences, permits and registrations is delegated to the Director of Regulation and Enforcement on the understanding that any applications giving rise to concern or difficulty may be referred to the Licensing and Public Protection Committee or its sub-committees for determination where appropriate.
- 3.2 The Licensing Service is responsible for the administration of grants, renewals and transfers as appropriate of hackney carriage and private hire vehicles, drivers and operators licences and for issuing licences under the Licensing Act 2003 and Gambling Act 2005, sex establishment and animal welfare legislation, and issuing permits for charitable collections and massage and special treatments etc. as well as the associated variations, amendments and transfers, which are carried out under policies delegated by your Committee.
- 3.3 The office of the Licensing Service is situated at 1-3 Ashted Lock, Birmingham Science Park, Dartmouth Middleway, Birmingham, B7 4AZ.

### 4. Licensing and Public Protection Committee

- 4.1 The licensing function of the City Council is disposed of through the processes and procedures of the Licensing and Public Protection Committee, sub-committees and officers by virtue of the Local Government Acts and other relevant statutory provisions.
- 4.2 The Court of Appeal stated in the “Hope and Glory” case (2011) that the licensing function of the licensing authority is an administrative function, by contrast with the function of the magistrates, which is a judicial function. The Court of Appeal said this:

*“The licensing authority has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure, but the decision itself is not a judicial or quasi-judicial act. It is the exercise of power delegated by the people as a whole to decide what the public interest requires.”*

This means that it must act in accordance with the two rules of natural justice. These are firstly that everyone has a right to be heard and secondly the rule against bias.

- 4.3 The right to be heard requires that a person directly affected by the matter under consideration must be given a fair opportunity both to state his/her case and to know of and to respond to any objections.

- 4.4 The rule against bias prohibits members participating in any decision if they have a financial or other interest in the outcome. Members will be familiar with this requirement from their general duties as Councillors.
- 4.5 Further guidance on the determination of matters concerning licensing appears at Annexe 1.
- 4.6 In September 2016 Members of the Licensing and Public Protection Committee agreed a Code of Conduct for its members, when sitting as the Licensing Committee. A copy of this code is attached at Annexe 2.
- 4.7 The provisions as set out in the appendices to this report summarise your Committee's policies in respect of the activities it licences.

## 5. Consultation

- 5.1 This report seeks to reproduce in one document a number of policies which have been implemented over a number of years. It does not seek to introduce any new policies, nor revise any existing policies.

## 6. Implications for Resources

- 6.1 It is the responsibility of the Committee Chairman and the Director of Regulation and Enforcement to ensure the services provided by the Committee are contained within the approved budget.

## 7. Implications for Policy Priorities

- 7.1 The issues addressed in this report relate to the City Council priorities associated with creating a cleaner, greener and safer city and providing excellent services.

## 8. Implications for Equality and Diversity

- 8.1 This report seeks to reproduce in one document a number of policies which have been implemented over a number of years. It does not seek to introduce any new policies, nor revise any existing policies. Therefore, no new equality analyses have been produced.

## **ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: nil

**APPENDIX 1**

<b>HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING</b>	
<b>Policy Document</b>	
<p>This document details the policies of the Licensing and Public Protection Committee applicable to Hackney Carriage and Private Hire.</p> <p>Policies are codified for ease of reference, and legislative requirements are also cited for completeness and clarity.</p>	
The legislation impacting on hackney carriage and private hire vehicles is the Town Police Clauses Act 1847, Birmingham City Council Hackney Carriage Byelaws 2008, the Local Government (Miscellaneous Provisions) Act 1976, Transport Act 1985, and the Equalities Act 2010.	TPCA 1847, LGMPA 76, TA 85, EA 2010
Although both hackney carriages and private hire vehicles are licensed to carry passengers, there is a distinct difference in the way vehicles can be made available for hire.	TPCA s45
Hackney carriages ("black cabs") are the only vehicles licensed to ply for hire, which means that they may stand on taxi ranks, respond to a flag down in the street, and are generally available for immediate hiring.	TPCA s45
Private hire vehicles must be pre-booked in advance, through a licensed private hire operator and may not use taxi ranks, respond to a flag down in the street, or be offered for immediate hiring.	TPCA s45
Hackney carriage vehicles must be fitted with a taximeter which calculates the fare according to time and distance travelled.	TPCA s68
The meter is tested and sealed to ensure accuracy and compliance with the fare structure agreed by the Licensing and Public Protection Committee.	(byelaw 6)
The current table of fares must be displayed in the vehicle.	TPCA s68 (byelaw 10)
There is no power for the licensing authority to control the fares charged for private hire journeys, the fare structure for each company being set by the licensed operator.	
Conditions of licence require the operator's table of fares to be displayed inside each private hire vehicle.	Conditions (Vehicle 23)
Although both hackney carriages and private hire vehicles are commonly referred to as taxis, the word "taxi" has a statutory definition, by virtue of the Transport Act 1985, and may only be applied to a licensed hackney carriage.	TA 1985 s13
For this reason Birmingham's licensing conditions prevent private hire operators, vehicles or drivers from using the words "taxi" or "cab" in relation to their business.	Conditions (Operator 21)
The hackney carriage fleet is made up exclusively of purpose-built cabs, all of which are equipped for wheelchair accessibility.	Policy HCV1
At present there is a moratorium on the issue of new hackney carriage vehicle licences which was agreed by the former Licensing Committee in September 2008. This moratorium was reviewed in September 2010 and again in September 2014 whereupon it was extended for a further three years. The Committee has the authority to revert to the previous arrangements, whereby no limits were imposed, if that is considered appropriate. Officers are presently in the process of procuring a further survey for 2017.	Policy HCV2



In addition to the requirements for an annual vehicle inspection and meter test, vehicle owners must also produce insurance for the vehicle, covering its use for public or private hire as appropriate before a licence can be issued. Further, the insurance for licensed vehicles must be maintained continuously throughout the duration of the licence.	Policy Veh1
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Licensing Hackney Carriage and Private Hire Drivers	
Individuals must satisfy the authority that they are fit and proper to be licensed drivers.	LGMPA 76 s51
<p>The following application process is designed to ensure services delivered within the City are of a good standard and is subject to the appropriate fees being paid:</p> <ul style="list-style-type: none"> <li>• application received</li> <li>• entitlement to drive in the UK checked</li> <li>• entitlement to work in the UK checked</li> <li>• knowledge test</li> <li>• criminal record check</li> <li>• medical</li> <li>• driving test</li> <li>• disability and safeguarding awareness course ('The awareness course')</li> <li>• licence fee paid</li> <li>• licence issued</li> <li>• (It may be necessary for an application to be referred to Committee at any stage of this process.)</li> </ul>	
Application Received:	
The application form will be checked and details entered onto the Licensing Service computer system.	
Entitlement to drive in the UK Checked:	
An EU or EEA licence is acceptable as long as the counterpart licence issued by DVLA (for EU and EEA drivers) accompanies it. However, vocational drivers may not drive indefinitely on an EU or EEA licence and must produce a United Kingdom DVLA driving licence if they have been resident in the UK for five years or more. An applicant for a hackney carriage or private hire driver's licence must have held a full DVLA driver's licence for at least two years.	Policy DVLA1

<b>Entitlement to work in the UK checked</b>	
The Immigration Act 2016 (the 2016 Act) amended existing licensing regimes in the UK to seek to prevent illegal working in the private hire vehicle (PHV) and taxi sector. With effect from 1 December 2016, the provisions in the 2016 Act prohibit any licensing authorities across the UK from issuing to anyone who is disqualified by reason of their immigration status. This duty is discharged by conducting immigration checks. Birmingham City Council has been checking a new applicant's right to live and work in the UK since 2009, so the impact of this new legislation has been minimal.	IMMIGRATION ACT 2016
<b>Knowledge Tests</b>	
Knowledge folders are prepared annually for hackney carriage licences and should remain current for three years from the date of first issue (in exceptional circumstances it may become necessary to amend this duration).	Policy KT1
An applicant may take the test associated with a knowledge folder at any time after issue, up to and including the expiry date subject to test appointment availability.	Policy KT2
Candidates failing to attend or making a third test cancellation without an adequate and evidenced reason should be required to wait twelve months before being allowed to take the test.	Policy KT3
Candidates absent or cancelling, within five clear working days, without an adequate and evidenced reason will forfeit their test fees.	Policy KT4
Knowledge folders contain a combination of legal, licence condition, route and two point location questions applicable to the licence type. Candidates must identify and memorise the answers to those questions and answer a selection of questions as detailed below.	Policy KT5
<b>Knowledge Test - Hackney Carriage</b>	
The hackney carriage knowledge test is conducted in-house and under normal test conditions (no communication with another person except the examiner, no reference to any material during the test except the test paper).	PolicyHCKT1
The test must be completed within two hours if conducted verbally, and three hours if written. (If a candidate wishes to take a written knowledge test, they must also complete the verbal communications test (VCT).)	PolicyHCKT2
The test consists of 106 questions (6 legal, 80 two-point locations and 20 routes) selected at random from the relevant knowledge folder.	PolicyHCKT3
All six legal questions must be answered fully and correctly.	PolicyHCKT4
The applicant must answer 90% of the remaining routes and two point location questions correctly in order to pass the test.	PolicyHCKT5
The applicant must pass this test to progress their application and is allowed three attempts.	PolicyHCKT6
The application process is terminated if the applicant fails the third test. The applicant can re-apply after a period of twelve months from the date of the last failed knowledge test.	PolicyHCKT7

Knowledge Test Private Hire	
The private hire knowledge test is conducted in-house and under normal test conditions (no communication with another person except the examiner, no reference to any material during the test except the test paper and A to Z).	Policy PHKT1
The test is intended to check basic English and communication skills and understanding of Law and licence conditions applicable to a private hire driver. The test does not require any geographical knowledge. The test consists of an A to Z based navigation test, twenty questions on The Law, conditions of licence and customer service and a further four questions about plying for hire.	Policy PHKT2
The test must be completed within 25 minutes and must be taken verbally.	Policy PHKT3
There are twenty questions forming the main part of the test, These are divided into three sections, The Law, conditions of licence and customer service. A candidate must attain a minimum 80% pass mark requiring a candidate to score 16 out of a possible 20, However, no more than two wrong answers are allowed for any single section and a candidate giving three wrong answers in a single section will fail the test outright.	Policy PHKT4
The A to Z based navigation exercise must be answered correctly. Failure to do so is an outright failure of the test.	Policy PHKT5
The four plying for hire questions must be answered correctly. Failure to do so is an outright failure of the test.	Policy PHKT6
An applicant is allowed three attempts at a test.	Policy PHKT7
The application process is terminated if the applicant fails the third test. The applicant can re-apply after a period of twelve months from the date of the last failed knowledge test.	Policy PHKT8
Criminal Record Check	
All applicants and drivers are required to undertake an enhanced Disclosure and Barring Service (DBS) check. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974 by virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002 and convictions are, therefore, never spent.	PolicyDBS1
On initial application, and every three years thereafter, where a licence is granted a driver will be subject to a criminal record check facilitated by the DBS.	PolicyDBS2
Where the DBS check reveals cautions or convictions relating to drugs, dishonesty, violence, or offences of a sexual nature, or reveals any information giving cause for concern, the applicant, or licensed driver will be referred to the Licensing Sub-Committee where the individual's fitness to hold a licence will be considered, unless those matters have already been taken into consideration and passed by Committee.	PolicyDBS3
All new applicants who have been resident abroad as adults must produce evidence of good conduct in that country or the equivalent of a DBS disclosure before their application can be considered. Any matters revealed will be dealt with in the same way as any revealed by the DBS check.	PolicyDBS4
An applicant who has fled an oppressive regime or has other reasonable grounds to believe that obtaining such documentation would be impossible or dangerous may apply to the Licensing Sub-Committee for an exemption and should support that application with a Statutory Declaration and a verifiable character reference from an individual employed in a Prominent 'Regulated Occupation'. Further details in this respect are available on request.	PolicyDBS5
Drivers' licences are currently renewed at the choice of the licensee for one, two or three years, to coincide with the DBS check.	

On renewal, applicants are required to show their current DVLA driving licence for any possible endorsements. The licence must be in good condition, easily read, and relate to the particulars of the applicant	Policy DVLA1
Where a DVLA driving licence check reveals matters or information that gives cause for concern the application can be referred to the Licensing Sub Committee for determination (unless previously considered and passed by Committee).	Policy DVLA2
<b>Medical</b>	
All applicants for the grant of a driver's licence are required to undertake and pass a Group II medical examination for vocational drivers before a licence can be issued. The medical is conducted at Birmingham City Council's Occupational Health Service.	Policy Med1
Once licensed, drivers remain subject to further medical checks as follows: <ul style="list-style-type: none"> <li>• Drivers aged 45 and under - every 5 years</li> <li>• Drivers between 45 and 60 - every 3 years</li> <li>• Drivers over 60 - every year.</li> </ul> (unless otherwise specified by Occupational Health)	Policy Med2
<b>Driving Test</b>	
Qualified examiners based within the City Council's Driver Training Service conduct the driving test.	Policy DT1
The applicant must pass the test in order to progress their application and is allowed three attempts.	Policy DT2
The application process is terminated if the applicant fails the third test.	Policy DT3
The applicant is eligible to re-apply after a period of twelve months from the date of the last driving test.	Policy DT4
<b>Disability and Safeguarding Awareness Training</b>	
All new applicants for the grant of a driver's licence must undergo the Birmingham City Council approved awareness training. The course is mandatory and subject to a fee, payable by the applicant.	Policy AT1
<b>Fee Paid and Licence Issued</b>	
An application will not be considered complete until such time as all fees have been paid. A licence is issued with attached conditions and the licensee is considered to have accepted those conditions unless appealed to Magistrate's Court within 21 days of issue, or granted exemption /alternative by a Licensing Sub-Committee.	LGMPA 76 s53
Whilst an application for the grant of a licence is pending the applicant will undertake such tests and checks as the Licensing and Public Protection Committee deem appropriate and this may include new tests introduced whilst the application is in progress.	Policy APP2
An incomplete application on which there has been no activity for a period of twelve months or more, will be deemed abandoned and treated as withdrawn. Where an applicant returns to the Licensing Service to pursue an application deemed abandoned they will be required to submit new forms and undertake all tests with the exception of the awareness course if already taken.	Policy APP3
<b>Driver Licence- Renewal</b>	
A driver's licence is eligible for renewal from a date ten weeks prior to the expiry of the licence. The renewal of a licence will be subject to the policies relating to medicals, DBS checks, outstanding enforcement issues, and DVLA licence checks. An expired driver's licence may be renewed up to one calendar month after the expiry date.	Policy DREN1

Late renewal	
The period of one month after the licence has expired is referred to as the “late renewal period” and any renewal application submitted within the late renewal period will attract the fee associated with the grant of a licence. Any application submitted more than one month after expiry will be considered a new application and will be required to include all tests and checks applicable to a new application. Where there are exceptional circumstances which may warrant an exemption from that requirement, Officers may refer the matter to the Licensing Sub Committee for determination or to agree a later renewal.	Policy DREN2
Multiple Driver Licence Types	
If a driver already holds one type of licence and applies for another type of licence they must undergo all the relevant tests that were either not applicable or not in force at the time the first licence was granted.	Policy MultiBadge 1
In any case where a medical or DBS check on the original licence is more than 12 months old, an applicant will be required to undertake another, the new check becoming current for both licences.	Policy MultiBadge 2
Driving test and Disability Awareness course passes can be carried over to the new application.	Policy MultiBadge 3
Knowledge test passes will not be carried over or exempted except where agreed by Committee.	Policy MultiBadge 4
Any person may request their application be referred to the Licensing Sub Committee for determination; however, the Head of Licensing or his nominated deputies, in consultation with the Chair of the Licensing and Public Protection Committee, may refuse such a request where the request is considered to be frivolous, vexatious or repetitious.	Policy- SubRefusal
Lost or Stolen Driver Licence (Badge)	
In the event a badge is lost or stolen this information must be reported to the Licensing office within three working days (not including Saturday and Sunday).	Policy LossBadge1
If the badge has been stolen the Police must be informed and a Police report number obtained.	Policy LossBadge2
If the badge has been lost a declaration to this effect must be made to the Licensing Offices.	Policy LossBadge3
A replacement badge will be issued on payment of a fee and production of a current DVLA driving licence.	Policy LossBadge4
A person may not legally work as a hackney carriage or private hire driver without being in possession of a current badge.	LGMPA 76 s54(2)(a)

<b>Licensing Hackney Carriage and Private Hire Vehicles</b>	
The Law states no-one can drive a hackney carriage or private hire vehicle licensed by Birmingham City Council unless they are licensed to do so i.e. they hold a current valid hackney carriage or private hire driver's licence, as appropriate, issued by Birmingham City Council.	LGMPA 76 s46
<b>Insurance</b>	
Vehicle proprietors must produce current, valid, insurance covering the use of the vehicle for public or private hire as applicable, before a licence can be issued.	LGMPA 76 s48(1)(b)
<b>Transfer of vehicle licence</b>	
Transfer of interest in a licence shall be completed only when the old identity plate(s) and licence are returned to the Licensing Office.	Policy Transfer1
If this cannot be done, the previous owner must sign a declaration informing the Licensing Office of the whereabouts of the vehicle identity plates or the reason the identity plates cannot be produced. This declaration will be used to assist in progressing with the transfer application.	Policy Transfer2
The transfer fee will be charged where interest in a vehicle licence is transferred to another proprietor. Where a renewal or replacement is conducted simultaneously both fees will be due.	Policy Transfer3
<b>Vehicle Replacement</b>	
The replacement fee will be charged when a vehicle is replaced during the life of a licence. Where a renewal or transfer is conducted simultaneously both fees will be due. If transfer, replacement and renewal transactions are conducted simultaneously the replacement fee will be waived.	Policy REP1
<b>Lost or Stolen Vehicle Licence (Plate)</b>	
In the event a vehicle identity plate is stolen the Police must be informed and a Police report number obtained. If the identity plate is lost a signed declaration must be made to this effect. This information must be reported to the Licensing Office within three working days. A replacement plate will be issued on payment of a fee and production of a valid insurance document and DVLA driving licence.	Policy LossPlate1
<b>Licensing a vehicle registered to another keeper:</b>	
Where an applicant for a vehicle licence provides a registration document indicating that the registered keeper is another individual, or legal entity, the applicant will be required to provide a letter from the registered keeper indicating that use of the vehicle as a hackney carriage or private hire vehicle by the applicant, is done with their full knowledge and consent.	Policy Keeper1
Where an applicant for a vehicle licence provides a registration document indicating that the registered keeper is another individual, or legal entity, the applicant will be required to provide a letter from the insurers indicating that they are aware of the arrangement and content to provide appropriate insurance cover in those circumstances.	Policy Keeper2

<b>Expired Hackney Carriage Vehicle Licence</b>	
When a hackney carriage vehicle licence has expired and more than one calendar month has elapsed any attempt to re-licence the vehicle must be referred to the Licensing Sub Committee for determination.	Policy ExpHack1
<b>Approved Vehicle Types – Hackney Carriage</b>	<b>LGMPA 76 s47</b>
The Licensing Authority has set down a series of specifications that a vehicle will need to comply with prior to it being accepted as a licensed vehicle:	
<ul style="list-style-type: none"> <li>Vehicles specifically adapted for wheelchair carriage which meet the M1 European standard.</li> </ul>	Policy HCVSpec1
<ul style="list-style-type: none"> <li>Any M1 vehicle adapted to be a hackney carriage where the adaptations are approved by the Vehicle Certification Agency (VCA) and the adaptations have VCA certification to European Whole Vehicle Type Approval (EWVTA) or G/B/ Low Volume (Small Series) Type Approval.</li> </ul>	Policy HCVSpec2
<ul style="list-style-type: none"> <li>The front seat of a hackney carriage vehicle will not be included in the seating capacity indicated on the vehicle licence.</li> </ul>	Policy HCVSpec3
<ul style="list-style-type: none"> <li>Any MPV or van derived M1 class vehicle to be licensed as a hackney carriage must be black in colour and must not be fitted with full-body advertising livery.</li> </ul>	Policy HCVSpec4
<ul style="list-style-type: none"> <li>Purpose built Hackney Carriage vehicles cannot be licensed for the purposes of private hire.</li> </ul>	LGMPA 76 s48(1)(a)(ii)
<b>Approved Vehicle Types – Private Hire</b>	<b>LGMPA 76 s48(1)</b>
The private hire licensing provisions apply to a variety of vehicles ranging from four-door saloon vehicles to people carriers, however, those vehicles should be:	
<ul style="list-style-type: none"> <li>built to M1 specification.</li> </ul>	Policy PHVSpec1
<ul style="list-style-type: none"> <li>have a minimum engine size of 1600cc (1500cc for second-generation Toyota Prius.)</li> </ul>	Policy PHVSpec2
<ul style="list-style-type: none"> <li>be capable of carrying a minimum of four average sized adults in comfort.</li> </ul>	Policy PHVSpec3
<ul style="list-style-type: none"> <li>All vehicles must be right hand drive and must not have fewer than four road wheels.</li> </ul>	Policy PHVSpec4
<ul style="list-style-type: none"> <li>Cars must have a minimum of four doors giving adequate access to and egress from the vehicle. The design of the car can be saloon, hatchback or estate.</li> </ul>	Policy PHVSpec5
<ul style="list-style-type: none"> <li>Larger vehicles (MPV, minibus, or people mover types) must have sufficient doors of sufficient size to allow passengers to get in and out quickly and safely.</li> </ul>	Policy PHVSpec6
<ul style="list-style-type: none"> <li>Where exit from the rear seats in vehicles equipped with three rows of seats requires operation of a tip seat mechanism, passengers must be able to exit from either side of the vehicle and the tip seats at either end of the middle row must be capable of independent operation.</li> </ul>	Policy PHVSpec7

<ul style="list-style-type: none"> <li>Where a vehicle is equipped with pop-up, or auxiliary seats intended for occasional use only, those seats must not be included in the licensed capacity of the vehicle.</li> </ul>	Policy PHVSpec8
<ul style="list-style-type: none"> <li>Where the vehicle configuration requires a whole bench seat to slide and/or tip for access/egress to the rear seats, the rear seats should not be included in the seating capacity and should be removed to avoid pressure from passengers to carry numbers in excess of the licensed capacity.</li> </ul>	Policy PHVSpec9
<ul style="list-style-type: none"> <li>All vehicles must have a wheelbase (when measured from the centre of the front wheel to the centre of the rear wheel) of at least 2540mm (100 inches).</li> </ul>	Policy PHVSpec10
<ul style="list-style-type: none"> <li>Cars must have a back seat width (when measured in a continuous line from edge to edge) of at least 1220mm (48 inches).</li> </ul>	Policy PHVSpec11
<ul style="list-style-type: none"> <li>Larger capacity vehicles (MPV, minibus, or people mover types) which are fitted with individual seats, or which do not have full width bench seats, must have a minimum 407mm (16 inches) of seat space per passenger across the width of the seat.</li> </ul>	Policy PHVSpec12
<ul style="list-style-type: none"> <li>Seat belts must be provided for all passengers according to the licensed capacity of the vehicle.</li> </ul>	Policy PHVSpec13
<ul style="list-style-type: none"> <li>Vehicles equipped with soft tops, removable hard tops and people carriers (MPV types) described as black on the log book, will not be licensed for the purpose of private hire.</li> </ul>	Policy PHVSpec14
<ul style="list-style-type: none"> <li>Vehicles fitted with darker tints and privacy glass can be licensed where the glass is to factory standard and vehicles are presented to licensing in an unmodified state, vehicles fitted with films, foils, or any other aftermarket tinting will be refused a licence, unless the tinting is removed and the vehicle returned to the manufacturer's standard specification.</li> </ul>	Policy PHVSpec15
<ul style="list-style-type: none"> <li>Vehicles identified as stretched limousines, or novelty vehicles will be considered outside the scope of this definition, in line with current practice.</li> </ul>	Policy PHVSpec16
<b>Transfer of Hackney Carriage Vehicle Licence</b>	
A proprietor of a hackney carriage vehicle may replace, swap or change their vehicle with another licensed hackney carriage vehicle of any age.	Policy HCVTran1
In this policy it is understood that the licence and its related vehicle will remain together and not be separated.	Policy HCVTran2
<b>Transfer of Private Hire Vehicle Licence</b>	
Private hire vehicle licences may only be transferred to a vehicle that is less than 8 years old.	Policy PHVTran1
The licence to be transferred into the proprietor's name must relate to a vehicle, that is less than 8 years old. Failure to comply with this policy will result in the private hire vehicle licence being transferred for the duration of the life of the licence; however, the Council will refuse to renew that licence when it expires.	Policy PHVTran2



<b>Replacement of Hackney Carriage Vehicle Licence</b>	
A hackney carriage vehicle licence may only be transferred to another vehicle (that is to say separated from its related vehicle and moved to another vehicle) that is younger/newer than the age of the vehicle currently licensed.	Policy HCVRep1
<b>Replacement of Private Hire Vehicle Licence</b>	
A licensed private hire vehicle can only be replaced, swapped or changed with a vehicle that is less than 8 years old.	Policy PHVRep1
Failure to comply with this policy will result in the vehicle or the private hire vehicle licence being transferred for the duration of the life of the licence, however, the Licensing Service will then refuse to renew this.	Policy PHVRep2
<b>Age Limit – Hackney Carriage Vehicles</b>	
No vehicle over the age of 14 years will be granted a licence.	Policy HCVAge1
No vehicle over the age of 14 years will have its licence renewed unless the vehicle is able to pass the Supplementary Test Plus, in which case the vehicle licence may be renewed on a year by year basis, subject to passing the Supplementary Test Plus on each occasion.	Policy HCVAge2
<b>Age Limit - Private Hire Vehicles</b>	
No vehicle over the age of 8 years will be granted a licence.	Policy PHVAge1
No vehicle over the age of 8 years will have its licence renewed unless the vehicle is able to pass the Supplementary Test Plus, in which case the vehicle licence may be renewed on a year by year basis, subject to passing the Supplementary Test Plus on each occasion.	Policy PHVAge2
<b>Vehicle Testing – ALL Vehicles</b>	
All vehicles are subject to a standard MOT test to determine its mechanical fitness and a more stringent supplementary test dealing with the vehicle's condition, appearance and suitability prior to licensing.	LGMPA 76 s48
An MOT certificate presented for the purpose of replacement of a vehicle or the renewal or granting of a licence must be less than ten weeks old at the time of the transaction, that time period to be calculated from the date of inspection.	Policy Veh2
The law provides that a private hire vehicle cannot, in its type, design or identification, lead anyone to believe that it is a hackney carriage.	LGMPA 76 s48(1)(a)(ii)
<b>Private Hire Operators</b>	
All Birmingham licensed operators must operate from premises within the City boundaries.	LGMPA 76 S46
Operators' fares are not regulated but each operator is required to ensure that their particular charges are displayed or available on request to each person travelling in a private hire vehicle.	Conditions (Vehicle 23)
An applicant for the grant of or renewal of an operator's licence will be asked to disclose details of any previous convictions and also an applicant for the grant of an operator's licence will be asked for details of any previous experience of working within the private hire industry including any other licences held, either currently or previously and whether any such licence has ever been revoked or suspended for any reason..	Policy Op1
Planning permission must be obtained for the premises where the operation is to be based, unless the applicant can provide confirmation from the Planning Department that such permission is not required.	Policy Op2





The records to be maintained include records of all journeys undertaken, and information and documentation relating to the vehicles and drivers operated, together with their "call signs".	LGMPA 76 s56
The fee payable for an operator's licence reflects the structure of the operation and the number of drivers and vehicles managed, in that it is set according to the officer time afforded to the licence. This fee is payable at the time the application is submitted.	Policy Op3
Renewal applications for operator licences must be submitted to the Licensing Office at least 14 days before expiry, fully completed and with all necessary accompanying paperwork.	Policy Op4
Failure to comply with this requirement may prevent a new licence from being issued on or before the expiry of the old licence.	Policy Op5
<b>Committee Policies Relating to Hackney Carriage and Private Hire Drivers</b>	
An applicant for a hackney carriage or private hire driver's licence must have held a full DVLA driver's licence for at least two continuous years.	Policy Dri1
<b>Disqualification from Driving</b>	
The Licensing Sub Committee will not be disposed to grant new applications or applications for renewal of hackney carriage or private hire driver's licences from persons who have been disqualified from driving until such time that such applicants have gained sufficient recent driving experience and become re-acquainted with driving conditions following reinstatement of DVLA licences; further that the period of further driving experience should be at least equivalent to the period of disqualification. For example, a driving disqualification of six months will mean a rehabilitation period of six months from the date the DVLA licence is reinstated. However, a rehabilitation period may be reduced at the discretion of the Committee where an applicant has successfully completed an approved driving course as part of the sentence.	Policy Dri2
<b>Driving Offences Associated with Drink or Drugs</b>	
<p>The Licensing Sub Committee will not be disposed to grant or renew applications for licences to drive hackney carriage or private hire vehicles where the applicant has been convicted of a driving offence associated with drink or drugs under the Road Traffic Acts for the following periods, following reinstatement of the DVLA driving licence</p> <p>In the case of disqualification a minimum of two years if the period of disqualification is longer Policy Dri2 will apply. two years where there is no disqualification.</p>	Policy Dri3

<b>Plying For Hire: First and Any Subsequent Offences</b>	
Drivers convicted of a first offence of plying for hire, and driving with no insurance should be revoked.	Policy Dri4
Drivers convicted only of plying for hire should be subject to suspension for a minimum period of six months for the first offence.	Policy Dri5
For any subsequent offence, consideration should be given to the ultimate penalty of revocation of a drivers licence.	Policy Dri6
<b>Refusal of Applicants with a Conviction for any Sexual Offence</b>	
An applicant with a conviction for any sexual offence should normally be refused.	Policy Dri6
<b>An Applicant Refused or Revoked by another Authority</b>	
Where an applicant has had a licence refused or revoked by another local authority, that application shall be referred to and determined by the Licensing Sub-Committee.	Policy Dri7
<b>Further Applications from Applicants or Drivers Refused or Revoked</b>	
An application for the grant of a hackney carriage or private hire driver's licence must be referred to the Licensing Sub-Committee for determination under any of the following circumstances:	Policy Dri8
<ul style="list-style-type: none"> <li>• application previously refused;</li> </ul>	Policy Dri9
<ul style="list-style-type: none"> <li>• licence previously revoked or refused upon renewal;</li> </ul>	Policy Dri10
Further, an application will not be considered within 12 months of the date of refusal, revocation or unsuccessful appeal, whichever is the later.	Policy Dri11
<b>Refusal of Applicants with a Conviction for a Drugs Related Offence</b>	
An applicant with a conviction for a drug-related offence should normally be refused.	Policy Dri12
<b>Failure of Three or More Knowledge Tests per Application</b>	
Where an applicant has failed three knowledge of the city tests in connection with an application for a hackney carriage or private hire driver's licence, that application will be refused on the grounds that the person is not considered to be a fit and proper person to hold such a licence.	Policy KT6
An applicant may re-submit an application for the grant of a driver's licence one year after the date of the third knowledge test. This application will be treated as a new application and the applicant must undertake and pass the appropriate tests.	Policy KT7
<b>Failure of Three Driving Tests per Application</b>	
Where an applicant has failed three driving tests in connection with an application for a driver's licence that application will be refused on the grounds that the applicant is not considered to be a fit and proper person to hold such a licence.	Policy DT3
An applicant may re-submit an application for the grant of a driver's licence one year after the date of the third driving test, however, should a further failure occur this application will be presented to the Licensing Sub Committee for determination.	Policy DT4

Working Dogs	
Since March 2001 licensed hackney carriage and private hire drivers in England have been under a duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without additional charge. Drivers can apply for an exemption from the duty on medical grounds if they have a condition that is aggravated by contact with dogs to allow them to continue in the trade. Drivers must comply with the requirements of the exemption.	EA 2010 s168-171
Wheelchair Accessibility	
<p>licensed hackney carriage and private hire drivers must:</p> <ul style="list-style-type: none"> <li>• transport wheelchair users in their wheelchair</li> <li>• provide passengers in wheelchairs with appropriate assistance</li> <li>• charge wheelchair users the same as non-wheelchair users</li> </ul>	
Suspension, Revocation and Refusal to Renew Licences	
<p>A hackney carriage or private hire vehicle licence may be subject to suspension, revocation or refusal, or renewal, by the Licensing Sub- Committee, on the following grounds:</p> <ul style="list-style-type: none"> <li>• The vehicle is unfit for use as a hackney carriage or private hire vehicle.</li> <li>• Any offence or non-conformity with the legislative provisions by either the operator or the driver.</li> <li>• Any other reasonable cause.</li> </ul>	
<p>A hackney carriage or private hire driver's licence may be suspended, revoked or refused on renewal by the Committee on the following grounds:</p> <ul style="list-style-type: none"> <li>• Since the grant of the licence the driver has been cautioned or convicted of an offence involving drugs, dishonesty, indecency or violence.</li> <li>• Any offence or non-compliance with the legislative provisions by the driver.</li> <li>• Any other reasonable cause.</li> </ul>	LGMPA 76 s61
<p>In all the above cases, and where applicants for the grant of a licence have been refused, there is a right of appeal against the Committee's decision to the Magistrates' Court.</p> <p>The outcome of all appeals is reported to the Licensing and Public Protection Committee on a regular basis.</p>	LGMPA 76 s61-63

Where information is received regarding a licensed driver which indicates there may be an immediate risk to public safety, that information will be shared with the Chair of the Licensing and Public Protection Committee to consider the immediate revocation of the driver's licence. Such action to be reported to the next available Licensing and Public Protection Committee as part of the Actions Taken by the Chair between Meetings report.

Any decision to revoke will be communicated to the driver as soon as is reasonably practicable by way of a letter, ordinarily hand delivered by Enforcement Officer(s).

Document	Link	Notes
Hackney Carriage Byelaws	 HC Byelaws	Revised 2010  Currently under review
Private Hire Driver Conditions	 Private Hire Driver Conditions	Revised 2010  (2017 revision agreed –pending implementation date)
Hackney Carriage Vehicle Conditions		
Private Hire Vehicle Conditions	 Private Hire Vehicle Conditions	Revised 2010  (2017 revision agreed –pending implementation date)
Private Hire Operator Conditions	 Private Hire Operator Conditions	Revised 2010  (2017 revision agreed –pending implementation date)

## **SCHEME OF DELEGATIONS (HCPH)**

Hackney Carriage / Private Hire	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Setting of Fees and charges	All Cases		
Approval of Hackney Carriage Fares	All Cases		
Agree standard conditions i.e. vehicle / driver/operator etc.	All Cases	Requests for exemption may be considered by sub committee	
When a hackney carriage vehicle licence has expired and more than one calendar month has elapsed		any attempt to re-licence the vehicle	
<b>AUTHORITY TO SUSPEND, REVOKE OR REFUSE TO RENEW OR REFUSE TO GRANT ANY LICENCE OR APPLICATION:</b>			
in the case of a licensed vehicle being found to be in contravention of legislation,			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the officer is not satisfied as to the fitness of the vehicle, or			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the officer is not satisfied as to the accuracy of the taximeter, or			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the vehicle does not have adequate insurance cover, or			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the vehicle is unroadworthy or in a dangerous condition.			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if an officer is not satisfied as to the fitness of a driver following a medical report from the Occupational Health Service.			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847

Hackney Carriage / Private Hire	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Where the applicant has 11 points on their DVLA licence or a conviction or caution for an offence that does not fall within the category of drugs, violence, dishonesty or of a sexual nature.			All Cases
Where an applicant has cautions over two years old, such application will be granted.			All Cases
Where an applicant has a conviction(s) for dishonesty, whatever the sentence, including a prison sentence, then such application will be granted provided at least ten years has lapsed since the last conviction for dishonesty.			All Cases
Where an applicant has an absolute discharge for any offence, with no other offences, such application will be granted.			All Cases
Where an applicant has failed 3 verbal communication tests, or 3 Knowledge tests, or 3 driving tests, then such application will be refused.			All Cases
Where an applicant has previously been refused or his/her licence revoked, whether by Birmingham City Council or another Local Authority, any further application will be refused within a 12 month period starting from the date of the refusal/revocation of the previous licence.		All Cases	
Where a private hire driver is convicted for plying for hire (first offence), then their private hire driver's licence will normally be suspended for a minimum period of 6 months.		All Cases	
Where a private hire driver is convicted for plying for hire and no insurance, then their private hire driver's licence will normally be revoked.		All Cases	
Grant/renewal of a licence where a driver is convicted of a drink/drug related driving offence or has been subject to a driving ban		All Cases	
Renewal of a drivers licence after the late renewal period where the circumstances for the lateness are on medical grounds only. (late renewal fee applies)			All case

Hackney Carriage / Private Hire	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub- Committee	Officers (Senior Licensing Officer or above)
Where a driver pays any fee by cheque and that cheque is not honoured and following chasing letters to be sent to the driver at his/her last known address, the drivers licence or vehicle licence will be suspended until such time as the requisite fee is received.			All Cases
When confirmation is received to the effect that the holder of the licence has been banned from driving by a Court of Law and is no longer in possession of a valid DVLA driving licence.			All Cases
Approval of the installation of safety screens in private hire vehicles, where MIRA testing and approval, or an equivalent European test certificate can be produced for the proposed screen			All Cases
Approval of certain standard exemptions to the current licence conditions for private hire operators and vehicles, where the applicant can demonstrate that the exemption is justified (limousines, stretched and special event vehicles carrying out private hire work within the city)			All Cases
Grant of licence where the applicant has 6 points on their DVLA licence or a conviction or caution for an offence that does not fall within the category of drugs, violence, dishonesty or of a sexual nature.			Licensing officer and above
Consideration of suitability of evidence as to good character where applicant is from a failed state and cannot comply with requirement to provide a DBS.			All cases



**GENERAL LICENSING POLICY DOCUMENT****(Matters not addressed by Statement of licensing Policy, Statement of Gambling Principles or Sexual Entertainment Policy)**

The General Licensing Team is responsible for a wide range of licensing functions, which include sales of alcohol, late night refreshment, regulated entertainment, sex establishments, charitable collections, scrap metal and gambling premises.

Administration of the Animal Welfare licensing function is under the remit of Environmental Health. The Senior Animal Welfare Officer and the administration team are located at Garretts Green. Inspection and enforcement is carried out by the Senior Animal Welfare Officer.

**Massage and Special Treatment Establishments**

Birmingham City Council Act 1990.

- Only a very small number of local authorities in the country have similar powers. The legislation was originally aimed at controlling massage and various treatments which could carry a health and safety risk to the public, e.g. water borne disease and exposure to UV rays. The Act has led to a whole range of premises being included, from health and fitness centres to hairdressing salons.
- Anyone conducting an establishment for treatment by way of massage is required to be licensed; other forms of treatment also include Solaria, Therapeutic Spa Baths, Sauna, Turkish Baths, Aromatherapy massage and Herbal Baths.
- Each licensed premises is subject to an annual visit by a Licensing Enforcement Officer.
- When considering applications for licences consultation is carried out with West Midlands Police. There are also statutory requirements placed on applicants to post notices on the premises giving passers-by opportunity to comment or object.
- All licences are subject to a set of conditions which regulate the manner in which the premises must be operated.



BCCA90 MST  
Standard Conditions

## Sex Establishments

Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the “Act”).

The Act gives local authorities the adoptive powers to control sex establishments which are defined as a sex shop, a sex cinema or a sexual entertainment venue (SEV)

### Sex Shops and Sex Cinemas

A sex shop is a premises used for a business, which consists, to a significant degree, of selling what are termed sex articles. These commonly include magazines, DVDs and different forms of sex aids.

A sex cinema is any premises used to a significant degree for showing of films, which are concerned primarily with, or relate to, or are intended to stimulate or encourage sexual activity.

The key words in the statutory definition are the words “to a significant degree”. This is not defined by the Act but case law suggests ‘significant’ implies a higher standard than ‘more than trifling’. In almost all cases the ratio between the sexual and other aspects of the business would be material: the absolute quantity of sales, the character of the remainder of the business, the nature of the display and the nature of the articles themselves are all considerations. No single factor is decisive and the Committee must decide which considerations are material and what weight to attach to them.

When considering applications for licences consultation is carried out with West Midlands Police, Ward Councillors and the Licensing Enforcement Team. There are also statutory requirements placed on applicants to advertise in the local press and post notices on the premises giving passers-by opportunity to comment or object.

The criteria for consideration are:

- the suitability of the applicant;
- whether the person applying will actually be responsible for operating the business
- the location and suitability of the premises; and
- whether the number of sex establishments within that locality is equal to or exceeds the number which the Council considers appropriate for the area.

Other than where the suitability of the applicant is concerned, there is no automatic right of appeal against a decision to refuse a licence and, therefore, an applicant’s only remedy would normally be by way of judicial review.



Sex Shop Conditions



Sex Cinema  
Conditions

## Sexual Entertainment Venues

A Sexual Entertainment Venue (SEV) is defined as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.

The meaning of ‘relevant entertainment’ is “any live performance or live display of nudity which is of such nature that it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)”.

These definitions would apply to the following forms of entertainment as they are commonly known: lap dancing; pole dancing; strip shows; peep shows; and live sex shows.

The legislation provides exemptions from the definitions of SEVs as follows:

- Sex shops and sex cinemas (these are separately defined in Schedule 3 to the 1982 Act).
- Premises which provide relevant entertainment on an infrequent basis.

These are detailed as premises where:


- no relevant entertainment has been provided on more than 11 occasions within a 12 month period
- no such occasion has begun within a period of one month beginning with the end of the previous occasion; and
- no such occasion has lasted longer than 24 hours.

On 12th October 2010, Birmingham City Council resolved to adopt the provisions to control SEVs. A separate Sexual Entertainment Venue Policy, to apply to the whole of Birmingham, was published and became effective from 3 January 2011. This Policy is was revised in October 2014 and was effective since 1 November 2014. The policy is currently under review.

The Sexual Entertainment Venue Policy document contains full details of the licensing regime applicable to Birmingham including application procedures, standard conditions and delegations. The Standard conditions were revised with effect from 1st November 2014 (on all licences granted or renewed after that date).



SEV Policy

<b>Charitable Street Collections</b>	
Police, Factories etc., (Miscellaneous Provisions) Act 1916.	
The Act prescribes Regulations, which govern the conduct of collections being made for charitable or other purposes in any street or public place.	
This could include a collecting box or tin, or even the sale of any articles or magazines where there is a representation at the point of sale that part of the proceeds are being applied to charitable or other purposes.	
Organisations do not have to be a registered charity but checks are made to ascertain that the organisation is genuine, and for new organisations or charities, copies of the latest accounts may be requested. Details of the promoter are forwarded to the West Midlands Police to afford them the opportunity to comment on the suitability of the applicant. The promoter of the collection or permit holder is also required to submit a return within one month of the collection taking place to show the amount collected and details of how the proceeds have been applied particularly on expenses.	
In September each year, an advertisement is placed on the Birmingham City Council website inviting applications to be lodged by 1 November for the following year. In order to allow for a fair opportunity of collection dates for all prospective charitable organisations, applications are restricted to either one collection that covers the “whole city” or two separate dates for a selection of districts.	
All applications received by 1 November each year are given priority for dates and areas and efforts are made to allocate preferred dates to each of the individual organisations. To avoid any clash of interest permits are not granted to two separate organisations to collect in the same place on the same day. For those organisations applying later than 1 November, applications are allocated on a first come first served basis provided that the requested date and area is still available.	
“Face to face” fundraising usually relates to the collection of direct debits / standing orders from shoppers/pedestrians. Such appeals are normally conducted by professional fundraising companies that are remunerated by charities. Where a professional fundraiser is involved in a charitable street collection on behalf of a charity, our procedures require that a copy of the statutory fundraising agreement is submitted with the application as this gives details of the costs of the fundraising.	
Under the Model Street Collection Regulations, “no payment shall be made out of the proceeds of a collection, directly or indirectly, to any other person connected with the promotion or conduct of the collection other than payments which have been specifically approved by the Council.”	
All such face-to-face street collection applications are, therefore, referred to Committee for consideration with the expectation that an applicant demonstrates how any potential donors are made fully aware of the remuneration costs involved and the relationship between the company and the charity.	
There is no right of appeal against the refusal to grant a street collection permit.	
The Charities Act 2006 was introduced to change the way in which charitable collections were	

regulated, however, the Act was implemented in phases and to date the provisions relating to public charitable collections have still not been introduced.

It should be noted that a part of the Charities Act 2006 that was introduced, amended the Charities Act 1992 in relation to the statement required to be made by professional fundraisers when raising money for particular charitable institutions. The statement must give the method by which the fundraiser's remuneration in connection of the appeal is determined and the notifiable amount of that remuneration.

### House to House Collections

House to House Collections Act 1939.

Whereas street collection permits are normally issued to cover a period of one or two days, a house to house collection licence can be granted for any period up to one year.

With regard to vetting and checking to ascertain whether the organisation applying is genuine or not, the same procedures apply as for street collections.

There is a requirement for the promoter of the collection to make a return following the collection.

Collections generally take place from door to door or from one public house to another.

Some of the larger well-known charities such as British Red Cross, Christian Aid, Shelter, RNLI etc., have a Government exemption from having to apply for a licence, but most of the smaller, and particularly local groups and organisations need a licence before they can collect money (or articles which they intend to give away or sell later), from door to door.

As with the procedure for street collections, where a charitable organisation is utilising the services of a professional fundraising company, our procedures require that a copy of the statutory fundraising agreement is submitted with the application.

Unlike street collections, there is a statutory right of appeal against the refusal to grant a house to house collection licence. In this case, the right of appeal is to the Secretary of State, and the grounds for refusal are set out in the Act.

### Skin Piercers

Local Government (Miscellaneous Provisions) Act 1982 Part VIII

Local Government Act 2003




Local Government (Miscellaneous Provisions) Act 1982 Part VIII applies to the registration of persons operating at premises to provide the following types of skin piercing: Acupuncture, Tattooing



acupuncture byelaws



Tattoo byelaws

and Electrolysis.	 electrolysis byelaws
Byelaws were introduced in 1985 to regulate these activities.	
The Local Government Act 2003 came into effect on 1 April 2004 and introduced the registration and inspection of all businesses which carry out cosmetic skin piercing and semi-permanent skin colouring.	
Byelaws were introduced in 2006 to regulate these activities.	  cosmetic skin piercing byelaws      Semi-perm skin colouring byelaws
Inspection and enforcement is carried out by officers of Birmingham's Environmental Health Service.	
This is purely a registration function, with no provision for objection or refusal. Registration Certificates are issued by Senior Licensing Officers or above.	

<b>Village Greens</b>	
The Commons Act 2006	
The Local Authority is the 'Registration Authority' for the purposes of the legislation.	
Applications can seek the inclusion in the register of town and village greens of land which is claimed to have qualified for registration by virtue of continuous usage by inhabitants of the locality for lawful sports and pastimes as of right over a period of 20 years. In order for an application to succeed it must satisfy all parts of the statutory test.	
Applications are reported to the Licensing and Public Protection Committee.	
In cases where objections give rise to a serious dispute of fact between the applicant and the objectors, a public inquiry may be held before an independent inspector, who will then put forward a recommendation to the Registration Authority.	
The final decision will be taken by the Licensing and Public Protection Committee, or a Licensing Sub-committee if so delegated.	

<b>Animal Welfare</b>
<b>Animal Boarding</b> Animal Boarding Establishments Act 1963
<p>Anyone involved in the business of providing accommodation for other peoples animals (being cats or dogs),is required to obtain a licence form the local authority.</p> <p>Inspections are undertaken by the Senior Animal Welfare Officer, prior to licence approval.</p> <p>Licensed premises now include home dog boarders, where individuals board dogs in their own home and also dog day care centres.</p>
<b>Dog Breeding</b> Breeding of Dogs Acts 1973 and 1991
<p>Legislation prescribes standards of management and accommodation in relation to the business of breeding dogs.</p> <p>In addition to the inspection by the Senior Animal Welfare Officer the Act requires that the services of an independent veterinary surgeon or practitioner is used for inspecting prospective establishments in respect of applications for the grant of a new licence</p>
<b>Pet Shops</b> Pet Animals Act 1951.
The Act regulates the sale of pet animals which includes a provision that a pet animal cannot be sold to a person under the age of 16. Conditions which are applied to premises promote animal health and welfare.
<b>Performing Animals</b> The Performing Animals (Regulations) Act 1925
The Act covers the use of animals in film and stage performances, at circuses, and as part of exhibitions etc. More recently these provisions are applied to persons who use animals during educational talks and demonstrations at children's parties. It is an offence for anyone to train or exhibit a performing animal unless they are registered.
<b>Dangerous Wild Animals</b> The Dangerous Wild Animals Act 1976 (as amended)
<p>The Act contains a schedule detailing a variety of animals for the purposes of the Act e.g. venomous snakes and certain monkeys etc.</p> <p>Zoos, pet shops and circuses are exempt from the provisions of the Act. There are no current licences, however, the Act provides powers to the Council to seize any animal being kept on premises which are unlicensed.</p> <p>There is a requirement for an independent report to be obtained from a veterinary surgeon or practitioner before a licence can be granted.</p>
<b>Riding Establishments</b> Riding Establishments Acts 1964 and 1970
<p>Stables which hire out horses or ponies for riding or instruction must be licensed under the provisions of the Riding Establishments Act 1964 and 1970. When considering applications there is a requirement for an independent report to be obtained from a veterinary surgeon or practitioner.</p> <p>An applicant for the grant or renewal of a licence must undergo or present an enhanced criminal record check (not more than 3 months old) with the submission of an application form.</p> <p>Once licensed, a licence holder must ensure that an enhanced criminal record check is conducted for any person in their employ that may come into contact with any persons under the age of 17 years that will be using the services of the riding establishment.</p>

<b>Zoos</b>
Zoo Licensing Act 1981
<p>This Act classes any establishment, other than a circus or pet shop, where animals are kept for public exhibition as a Zoo.</p> <p>Licences are initially granted for four years and then renewable every six years.</p> <p>Zoos must observe standards of modern zoo practice which have been specified by the Secretary of State.</p> <p>Inspections are carried out annually by the Senior Animal Welfare Officer, however, at least twice during the term of the licence; a formal inspection must be carried out by a veterinary surgeon or practitioner in addition to an inspector appointed by the Secretary of State.</p>

<b><u>Notices</u></b>	
Where applications carry a requirement to advertise in the local press, it is recommended advertisements are placed in The Birmingham Mail, The Birmingham Post, or, for applications relating to premises in Sutton Coldfield, the Sutton Observer.	Policy Notice1
Should applicants wish to use an alternative publication they are advised to consult with officers at the Licensing Service.	
In circumstances where Birmingham City Council Licensing Service is required to publish notices in the local press such notices will be placed in the Birmingham Mail or the Birmingham Post.	Policy Notice2

<b>Film Classification</b>
<p>On 21<sup>st</sup> March 2012 Birmingham City Council's Licensing Committee agreed a formal procedure for dealing with requests to exhibit films that have no certificate from the British Board of Film Classification (BBFC).</p> <p>Requests for film classification must be submitted 28 days prior to the proposed screening, be made in writing and give details of the following:</p> <ul style="list-style-type: none"> <li>• where and when the film is to be exhibited,</li> <li>• intended audience profile,</li> <li>• suggested film classification,</li> </ul> <p><b>All</b> requests must be accompanied by a brief synopsis and a copy of the film in standard DVD format.</p>



Where Birmingham City Council has determined the classification of a film it will be subject to the following standard conditions:

- *A notice must be displayed both inside and outside of the premises to ensure that persons entering are readily aware of the classification attached to any film or trailer.*
- *No person is to be admitted to any part of the programme unless they are of the age permitted by the relevant classification. This condition does not apply to members of staff under the relevant age provided that the prior written consent of the person's parent or legal guardian is obtained.*

#### General information

If a premises licence, issued under the Licensing Act 2003 authorises film exhibitions, the licence holder **must** comply with any recommendation by the British Board of Film Classification (BBFC), or if the film has no classification, then in accordance with any recommendation by the Licensing Authority.

A Licensing Authority can either determine the appropriate classification of any film which has not been the subject of classification by the BBFC; or determine a different classification to that determined by the BBFC to apply generally in Birmingham.

The BBFC classifies films in the following way:

- U Universal (suitable for all).
- PG Parental Guidance (some scenes may be unsuitable for young children).
- 12 Suitable for age 12 years and over.
- 12A Suitable for age 12 years and over, or younger when accompanied by an adult.
- 15 Suitable for age 15 years and over.
- 18 Suitable for 18 years and over.

#### Exemptions

The Licensing Act 2003 sets out exemptions for the provision of regulated entertainment from requiring a licence under the Act:

- Film exhibitions for the purposes of advertisement, information or education; if the sole main purpose of the exhibition is to demonstrate any product, advertise any goods or services, or provide information, education or instruction, even if they simultaneously entertain;
- Film exhibitions in museums and art galleries; if the exhibition consists of or forms part of an exhibition put on show for any purpose of the museum or art gallery, even if they amount to the provision of entertainment.

## Enforcement

Licensing Enforcement Officers and Licensing Compliance Officers are issued with an identity card and authorisation. They enforce the provisions of the legislation for which they are authorised. This includes but is not limited to:

- Birmingham City Council Act 1990
- Equalities Act 2010
- Gambling Act 2005
- House to House Collections Act 1939
- Licensing Act 2003
- Local Government Act 1972 (Section 222)
- Local Government Act 2003
- Local Government (Miscellaneous Provisions) Act 1976 Part II
- Local Government (Miscellaneous Provisions) Act 1982 Part I, II, VII
- Police Factories, etc. (Miscellaneous Provisions) Act 1916 (Street Collections)
- Private Hire Vehicles (Carriage of Guide Dogs etc.) Act 2002
- Private Security Industry Act 2001
- Town Police Clauses Act 1847 and 1889
- Hackney Carriage Byelaw, 26 June 2008

Officers undertake inspections, offer advice, deal with requests for assistance, investigate complaints and take part in planned exercises including operations with other enforcement agencies.

The premises and individuals licensed under the above Acts will be risk rated and inspected as and when appropriate in line with that rating, to ensure compliance with the legislation and any conditions attached to their licences. Inspections may also take place upon the grant, renewal or transfer of a licence or upon the receipt of a complaint.

Private hire operators will be risk rated and inspected an appropriate number of times during the year. Officers will check that the documents and records relating to drivers, vehicles and bookings are as prescribed by their conditions of licence. All operators will receive at least one inspection during the course of the operational year.

Stop check exercises are regularly undertaken with the assistance of the Police. Licensed vehicles are stopped and inspected to ensure that they and their drivers are complying with conditions of licence and are safe to carry members of the public. If defects on the vehicle are noted such as loose radios, bald tyres or defective lights, the plate licence may be suspended until the issues are rectified.

As well as routine inspections and high visibility exercises, Officers undertake exercises, where they pose as members of the public and make test purchases. Again this is to check licensees are complying with the legislation and their conditions of licence.

Officers also work jointly with agencies such as the Police and DVSA (formerly VOSA).

Further information can be found within the Regulation and Enforcement, Enforcement Policy.

## SCHEME OF DELEGATIONS

(For matters not addressed in individual policy documents)

Miscellaneous	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Massage & Special Treatment Licence	If objection received		If no objection received
Skin piercing registration			All Cases
<u>face-to-face</u> street collection applications	All cases where collectors are paid, or where fundraisers are paid directly or indirectly from proceeds of collection		All other cases
House to House collections applications	Cases referred by Licensing Officers for determination		All cases (unless application raises concerns i.e. allocation of proceeds)
Village Green Consideration of application	All cases		
Village Green – instruction of independent inspector	All cases		
Village Green – determination of application	All Cases		

## **DELEGATION OF FUNCTIONS REGARDING THE LICENSING ACT 2003**

### **(Extract from Statement of Licensing Policy)**

<b>Subject</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence.	If a Police objection is made.	If no objection made.
Application for personal licence with relevant unspent convictions.	If a Police objection is made.	
Application for premises licence/ club premises certificate.	If a relevant representation is made.	If no relevant representations made.
Application for provisional statement.	If a relevant representation is made.	If no relevant representations made.
Application to vary premises licence/club premises certificate.	If a relevant representation is made.	If no relevant representations made.
Request to vary designated premises supervisor.	If a Police objection is made.	All other cases.
Request to be removed as designated premises supervisor.		All cases.
Application for transfer of premises licence.	If a Police objection is made.	All other cases.
Application for interim authorities.	If a Police objection is made.	All other cases.
Application to review premises licence/club premises certificate.	All cases.	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.		All cases.
Decision to object when Local Authority is a consultee and not the relevant authority considering the application.		All cases.
Determination of application to vary premises licence at community premises to include and alternative licence condition	If a Police objection is made.	All other cases.

Determination of a Police objection to a STANDARD temporary event notice.	All cases.	
Application for minor variation of premises licence/club premises certificate		All cases ( for decision whether to consult other Responsible authorities and for Determination)
Determination of a Police / EH objection to a temporary event notice.	All cases except where objection requires inclusion of conditions from existing premises licence and applicant is in agreement	Where objection requires inclusion of conditions from existing premises licence and applicant is in agreement
Attachment of Conditions from existing premises licence to TEN	Where applicant objects to conditions	If applicant is in agreement
Issuing of Counter notice for STANDARD TEN	Following determination hearing	Where limits are exceeded
Issuing of counter notice for Late TEN		All cases
Suspension of licence for non payment of fees		All cases
Requests for a change to the film classification awarded by the BBFC	All cases	
Requests for classification of films where there is no BBFC classification	Where there is concern about the content of any film submitted or the proposed exhibition of the film	Where appropriate procedure is followed and no concerns as to content
Request for implementation of Early Morning Restriction Order	FULL Committee	
Request for imposition of Late Night Levy	Full City Council	
Statement of Licensing Policy	Full City Council	

**DELEGATION OF FUNCTIONS REGARDING THE GAMBLING ACT 2005**

**(Extract from Statement of Gambling Principles)**

Subject	Full Council	Licensing & Public Protection Committee	Licensing Sub-Committees	Officers
Three year licensing policy	X			
Policy to permit casino	X			
Fee setting (when appropriate)		X		
Application for premises licence			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Gambling Commission	Where no representations received or representations have been withdrawn
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Review of a premises licence			X	

Application for a club/gaming club machine permits			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Cancellation of club gaming/club machine permits			X	
Application for other permits			Where an application is received to operate more than 4 gaming machines on an alcohol licensed premises	Where an application is received to operate 4 or less gaming machines on an alcohol licensed premises
Cancellation of licensed premises gaming machine permits				X
Consideration of temporary use notice				X
Decision to give a counter notice to a temporary use notice			X	
Decision to attach/exclude a premises licence condition			X	
To administer and carry out all other functions not specifically mentioned in the delegation to the Licensing & Public Protection Committee, which are capable of being delegated to an officer as provided in the Gambling Act 2005 and any regulations made under that Act, together with any related functions				X

**GOOD PRACTICE AND PROCEDURE**

The following are points that your Committee should bear in mind when making decisions concerning individual licences and should be read in conjunction with the Members' Code of Conduct and the Member/Officer Protocol. They are based on the large number of legal cases in which the courts, including the European Courts, have considered different aspects of a local authority's licensing functions. However, your Committee should be aware that in certain cases there are additional requirements resulting from specific legislation.

**1. Political/Party Group Meetings**

Group meetings should be concerned with policy reports, not the discussion of individual licence applications etc. The use of a party political whip is inconsistent with the rules of natural justice and should be avoided by Councillors sitting on the Licensing and Public Protection Committee.

**2. Members**

Members should be mindful of the requirements concerning the disclosure of interests and when it is necessary for a member to vacate a meeting. In cases of doubt the Director of Legal Services, or his representative, should be consulted. Details are set out in the Council Constitution.

**3. Social Media**

**What are social media?**

Social media is the term to describe websites and online tools which allow people to interact with each other by creating their own content. The content could, for example, be blogs, videos or short messages, known as tweets, via twitter.

On social media sites users share information, discuss opinions and may create interest groups or pages. Ultimately people use these sites and tools to build online communities and networks which encourage participation and engagement.

**Types of Social Media:**

- Blogging and microblogging – online journals – Twitter is an example of microblogging, where entries are limited to 140 characters



- Online Forums – people with similar interests sharing information and opinions – AccyWeb is an example
- Social networking sites – these facilitate connections between people who already know each other, often in a social context, but are increasingly used by businesses to promote their products or services- Facebook is an example
- Video and photo publishing – sharing videos and photographs worldwide – Flickr is an example

#### **Some general legal issues:**

- **Libel** – If you publish an untrue statement about a person which is damaging to their reputation, they may take a libel action against you. The same thing may happen if, for example, someone else publishes something libellous on your website, you know about it and don't take swift action to remove it. A successful libel claim could result in the award of damages against you,
- **Copyright** – Placing images or text on your site from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Therefore don't publish anything you are unsure about, or obtain prior permission. A successful claim for breach of copyright would be likely to lead to an award of damages against you.
- **Data Protection** – Do not publish the personal data of individuals unless you have their express permission.
- **Bias and Predetermination** – if you are involved in making licensing decisions, do not say anything through social media (or indeed anywhere) that suggests you have completely and irrevocably made your mind up on an issue that is due to be formally decided upon. While your likely view on a particular application may be well known, you need to be able to show that you attended the committee or hearing prepared to take on board and weigh all the evidence and arguments, and were genuinely persuadable to a different view. If you weren't, the decision may be later challenged as invalid. If a person has suffered some sort of detriment as a result of such an invalid decision, they may have a claim against the council for damages.
- **Wednesbury Unreasonableness** – members must also always be seen to acting reasonably in relation to the Committee process and consideration of all applications; if detriment arises a Third Party may commence Judicial Review proceedings.

### **Use of Social Media by Members of Committee**

- Although the use of Social Media can be an invaluable tool for a Member of the Council/Committee Member it is important that such usage is properly managed at all times and that particularly a clear distinction is maintained between Private usage and Member usage. It is important that Social Media is not perceived by any Third Party to interfere with the proper decision making process. Members are advised to exercise extreme caution before commenting on social media, or in the conventional press, on any licensing decisions which they are, or are likely to be involved in making. This is to ensure that their comments may not be interpreted to mean that members have already determined a licence application, which could be used against the local authority.
- The same applies to Council Members who are not members of the Licensing & Public Protection Committee, but whose comments or actions on social media could be misinterpreted. If elected Members make any comments when representing residents who are objecting to licence applications they must not link their comments in any way to members of the Committee.
- During Committee hearings it is particularly important that mobile communication devices, including telephones and tablet computers or Social Media are not used, whether for research or communication purposes. The use of any form of Social Media or mobile telephones at Committee may lead to an inference of bias, pre-determination or Wednesbury Unreasonableness.

### **4. The Applicant**

Ordinarily the applicant should be given the opportunity of being heard by your Committee before the application is determined, even if this is not an express requirement of the relevant statute. The applicant should also be allowed to be accompanied by a legal or other representative if they so desire.

### **5. Third Parties to a Hearing**

Any person or body wishing to make representations or objections in respect of an application or notice should be given the opportunity to do so. Subject to any statutory restriction the nature of the representations or objections should be disclosed to the applicant in advance of the meeting so that they may consider their response. The identity of an objector should not be disclosed to the applicant without their consent, unless any statutory provision state otherwise.

## **6. Disclosure of Information**

The applicant should be given prior knowledge of the nature of the Council's concerns, and of those of any objectors.

The extent of the disclosure should also be sufficient to avoid the applicant having to request an adjournment to allow time for proper consideration of the matters they are obliged to address.

## **7. Evidence**

Each member of your Committee should be supplied with copies of every document that has been supplied both by and to the applicant and any third parties to the hearing. If any new documents are produced at the meeting, each party should have the opportunity to inspect them. In certain cases there may be statutory provisions which require another party's consent, if applicable, to new documentation being introduced at the meeting.

## **8. Adjournments**

Any request for an adjournment should not be refused if to do so would effectively deny the applicant a fair hearing.

## **9. The Hearing**

The procedure is intended as a general framework to ensure the rules of natural justice apply and that a fair hearing is presided over by an "independent and impartial tribunal". The conduct of individual hearings may vary slightly according to circumstances and the discretion of the Chairman. In all cases, however, this general framework will be followed:

- a. Members present should identify themselves so that the applicant may be satisfied that there has been no breach of the rule against bias.
- b. A licensing officer will outline the relevant details of the application or matter under consideration.
- c. Usually the applicant will present his or her case first, at the conclusion of which members may ask questions. A similar opportunity will then be afforded to any third party to a hearing making representations or objections to the application.
- d. The applicant should be given the opportunity to ask questions of those third parties.

- e. Once the licensing officer, the applicant and any third party to the hearing have given evidence and answered any questions, the third party shall first be given an opportunity to make brief closing remarks, and then the applicant to make their final closing remarks on the application under question. All parties should leave the room, so that only the Committee, the Committee Manager and the Director of Legal Services' representative remain.

During the hearing members must not discuss the merits of the case. This should be left until the applicant, any objectors and officers involved in the case have left the room.

The only members who may participate in the decision making are those who have seen and heard all the evidence and have been present for the subsequent discussion.

Once the applicant, any third party and officers have left the meeting they may be recalled to provide further information or clarification but all of them must return, not just the person from whom further information is required.

## **10. The Decision**

Once the Committee has reached its decision the parties must be recalled and informed verbally of the decision with the exception of applicants and drivers for a hackney carriage or private hire licence or personal licence who only receive the decision later in writing. If reasons for the decision are to be given, which will usually be the case, this will be done in writing at a later date. Notice of any right of appeal should also be given to the parties.

## LICENSING COMMITTEE CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS (As agreed Sept 2016)

### 1. PURPOSE OF THIS CODE

- 1.1 This Licensing Code of Practice ('the Licensing Code') has been prepared to guide members and officers in the discharge of the City Council's statutory Licensing functions. This Code will also inform potential applicants and the public generally of the high standards of ethical conduct adopted by the Council in the exercise of its Licensing powers.
- 1.2 The Licensing Code is in addition to Birmingham's Code of Conduct for Members, which was adopted by the City Council in June 2012. For the avoidance of doubt, when an Executive Member attends and participates in the decision-making of the Licensing Committee, s/he does so as a Member of the Committee and not as a Member of the Executive. Accordingly, s/he must, along with other Members of the Committee, exercise an independent mind on issues before the Committee.
- 1.3 The provisions of this Licensing Code are designed to ensure that Licensing decisions are taken on proper grounds, are applied in a consistent and open manner and that Members making such decisions are held accountable for those decisions. The Licensing Code is also designed to assist Members and officers in dealing with approaches from applicants or those who already have a relevant Licence/permit, etc.
- 1.4 Throughout this Code, reference is made to the Licensing Committee. This refers to the Licensing and Public Protection Committee ("LPPC"), in the context of its determination of applications for licences i.e where the Committee performs the functions of the Licensing Authority, rather than in the context of non-Licensing Authority decisions.
- 1.5 Any reference to Licensing Committee equally refers to any Licensing Sub-Committee.

### 2. CONTEXT

- 2.1 This Licensing Code applies to both Councillors and officers– it is not therefore restricted to Licensing Committee members. The successful operation of the Licensing system relies on mutual trust and understanding of each other's role. It also relies on both Members and Officers ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

The Human Rights Act provides additional safeguards for citizens, and encourages the application of best practice. Article 6 is concerned with guaranteeing a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations.

- 2.2 This code must be read in conjunction with (where appropriate):
  - The LPPC Policies Procedures and Delegations.
  - The Statement of Licensing Policy

- Home Office Guidance (s182) – issued under S182 Licensing Act 2003
- The Statement of Gambling Principles and relevant guidance issued by the Gambling Commission.
- The Sexual Entertainment Venue Policy
- Code of Conduct for Members
- Code of Conduct for Officers

### **3. GENERAL CONSIDERATIONS**

- 3.1 In relation to Hackney Carriage and Private Hire applications, (generally speaking) the Licensing Authority **MUST NOT** issue a licence to a driver, operator or vehicle proprietor unless they are satisfied the applicant is a fit and proper person.
- 3.2 In relation to Licensing Act matters, where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn, the licensing authority **MUST** grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act.
- 3.3 If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations.
- 3.4 Birmingham City Council's Code of Conduct for Members (adopted June 2012) must be complied with throughout the decision making process, which includes mandatory requirements with regard to member interests.
- 3.5 The responsibility for declaring an interest rests with individual Members and Officers of the Council. This Licensing Code outlines further rules applicable to the Licensing process in Birmingham.
- 3.6 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst Officers are responsible to the Council as a whole. This applies equally to traditional forms of political management based on Committees and to models based on forms of executives or elected mayors. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to Officers through a decision of the Council, the Executive or a Committee. A successful relationship between Councillors and officers can only be based upon mutual trust, respect, courtesy and understanding of each other's positions. This relationship, and the trust which underpins it, should never be abused or compromised.
- 3.7 Both Councillors and Officers are guided by Codes of Conduct. Birmingham's Code of Conduct for Members provides standards and guidance for Councillors. Employees are subject to the Employees' Code of Conduct. In addition to these codes, a Council's standing orders set down rules which govern the conduct of Council business. There is also a Member / Officer Protocol that assists in defining the relation with both.
- 3.8 Birmingham's Code of Conduct for Members sets out the requirements on Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests, but also appropriate relationships with other

Members, staff and the public, which will impact on the way in which Councillors participate in the Licensing process. Of particular relevance to Councillors serving on the Licensing Committee or Executive, or who become involved in making a Licensing decision is the requirement that a Member must not use their position improperly for personal gain or to advantage friends or close associates.

3.8 The basis of the Licensing system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved.

3.9 From time to time applicants may submit confidential information for example a financial appraisal in support of an application. Such appraisals will be taken into account in relation to determination of the application, but such information may be exempt from the requirement from disclosure.

3.10 Public Speaking

During public speaking at Licensing Committee, the following should not occur:-

- Members should not cross-examine members of the public at any time;
- Members should not ask leading questions of officers or members of the public as by way of introducing new facts to the debate;
- Members should only ask relevant questions; and
- Late evidence should not be introduced by speakers at Committee – unless authorised at the discretion of the Chairperson. with the agreement of all parties.

3.11 Conflicts of Interest

Some Members in general are more likely than others to be uncomfortable in the role of Licensing Committee Member owing to the combined pressures of their local business interests, the ward member advocate role, and the constraints of the Licensing system. Any potential licence-related background may also give rise to a perception by the public that they are more likely to be in favour of an application, even where they are determining cases completely impartially. In order to minimise the risk for the Council and the Member concerned, the Member in question should discuss their position carefully with the Director of Regulation and Enforcement and Monitoring Officer for the Council, of the Council to see whether it would be suitable for him/her to become a Member of Licensing Committee or if already a Member take part in the determination of any applications before them

## **4. LOBBYING AND ATTENDANCE AT PUBLIC MEETINGS**

### **General**

4.1 Given the requirement that Members of the Licensing Committee should exercise an independent mind to applications in accordance with the relevant considerations, Members must not favour any person, company, group or locality. Members can, of course, form and express a personal opinion on Licensing applications but they are advised to indicate that they will only form a final opinion about an application after full consideration of all the evidence, representations and submissions made. Members should be careful not to publicly commit themselves to a particular outcome on an application prior to its full consideration at Committee, as to do so could be perceived by others as the Member having closed his/her mind to hearing all the relevant

considerations. If that were to happen, he/she should be asked by the Chairman of the Committee, the Director of Regulation and Enforcement and/or the Monitoring Officer (or their representatives) not to:-

- (a) take any further part in the consideration of the application; and
- (b) vote on the application. This can only be transparently demonstrated by the relevant Member not attending the meeting or leaving the Committee Room in order to ensure the integrity of the whole decision making process. If the relevant Member wishes to speak at Committee then they should declare their pre-determined position and withdraw from the meeting. This is to ensure Members of the Licensing Committee do not, by their presence, influence or seek to influence the remainder of the decision making body. Members should always notify Committee of any approach by any group, person or company prior to the discussion of the relevant matter.

- 4.2 Members of the Committee who may be involved in the determination of an application are, of course, free to listen to a point of view about a proposal, give procedural advice and agree to forward any comments, but should then refer the person to Officers. Members in this situation may indicate (or give the impression of) support for or opposition to a proposal, but should avoid giving the impression of a closed mind.
- 4.3 Whilst Members involved in making decisions on applications may begin to form a view as more information and opinions become available, a decision can only be taken by the Committee after all available information is to hand and has been duly considered. In this regard, any political group meetings prior to the Committee meeting should not be used to determine how Councillors should vote. Decisions can only be taken after full consideration of the evidence, representations and submissions made.
- 4.4 The Chairman of the Committee should attend a briefing with Officers prior to a Committee meeting, to help give an effective lead in the Committee.
- 4.5 Councillors involved in decision making on Licence applications should not, whether orally or in writing, organise support or opposition to a proposal, lobby other Councillors, act as advocate or put pressure on officers for a particular recommendation. However, other Councillors (who are not part of the decision making process) within that Committee Member's Ward, can make written representations to the Licensing Committee.
- 4.6 A Member involved in determining applications may respond to lobbying by openly expressing an opinion prior to the full report of the Director of Regulation and Enforcement to a Committee meeting (and there may be particular local circumstances where this is considered appropriate) but should indicate they will not make a final decision until after full consideration of all the evidence, representations and submissions.
- 4.7 If a Member involved in determining applications goes so far as to make it clear beyond doubt that they have a completely closed mind which could not be shifted, this would amount to predetermination and the Member concerned should respond as in 4.1.
- 4.8 Where Members involved in the determination of applications are in attendance at public meetings or Ward meetings they may listen to the debate on current applications, provide advice about procedures involved in determining an application and express a view about an application but should respond as in 4.6.



#### 4.9 Members Predetermination of Applications

Section 25 of the Localism Act 2011 states that prior indications of a view of a matter do not amount to predetermination in the following situations:

- (2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because-
  - (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter and
  - (b) the matter was relevant to the decision.

The advice provided by the Monitoring Officer is that this is the present position with regard to the Legislation but whilst Members are entitled to express a view in relation to an application Members should indicate they still have an open mind in relation to an application until they have had the opportunity to consider the report of the Director of Regulation and Enforcement and that the final decision in relation to the application can only be made by Committee. This caveat is intended to safeguard so far as possible the decision made by Committee from Judicial Review until further case law and guidance has assisted with the interpretation of Section 25 of the Localism Act 2011.

#### Dealing with Correspondence

- 4.10 Members of the Committee and Executive often receive correspondence from constituents, applicants and other interested parties asking them to support or oppose a particular proposal. Members should forward a copy of the correspondence to the Director of Regulation and Enforcement or inform him/her at the Committee if time is short. Merely forwarding the correspondence onto the relevant officer would not prevent the Member being involved in determining the application.

#### Pre-Application Discussions

- 4.11 When involved in pre-application discussions, Officers should always act fairly to all and completely impartially by providing accurate advice and assistance when required or requested by the general public, applicants or Members. A written record of all such discussions must be retained on the Licensing file.

#### Site Visits by Members with Officers

- 4.12 The deferral of a relevant application for a site visit should not be on the basis of exposing members of the Committee to local opinion, but should be on sound and proper Licensing reasons, which shall be recorded in the minutes of the meeting.
- 4.13 Under the Chairman's guidance the role of the Licensing Officer attending the site visit will be:
  - (a) to brief Members on the Licensing applications(s) the subject of the visit and explain the reasons why the application was deferred for a visit;
  - (b) to ensure that the views of all interested parties are heard by all Members on the site visit and accurately recorded. Officers will prepare a written report of the site visit which will be taken back to Licensing Committee to form the basis of a further discussion at a subsequent meeting.

- 4.14 The Chairman (or Member chairing the visit) shall explain the purpose of the visit and how it will be conducted to all persons present at the site visit.
- 4.15 Officers shall ensure, where practical, that applicants, Members and interested parties are invited to attend the visit and that they are able to view all key parts of the site, which is the subject of the Applications.
- 4.16 The purpose of a site visit conducted by Members and officers is to gain information relating to the land or buildings which are the subject of the Licensing application and which would not be apparent from the Licensing application to be considered by the Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area, and is an opportunity to hear the views of the members of the public, applicants and other interested parties. Discussions on site visits shall be confined to the application as currently submitted. A Member of Committee who has an interest in a Licensing application, or who has acted in a way that amounts to predetermination, cannot attend the site visit in his or her capacity as a Member of Licensing Committee. However, the Member concerned would be entitled to attend the site visit in his or her personal capacity as a member of the public.
- 4.17 Whilst on site visits, Members of Committee can express an opinion on the application or its merits, but should avoid making comments or acting in a way which makes it clear beyond doubt that they have a completely closed mind, as this would amount to predetermination. Whilst Members of Committee are not prevented from engaging individually in discussion with applicants or objectors, to ensure transparency of public dealing by Member and effective /orderly management of the site visit, it is recommended that any question of the applicant(s) / objector(s) by the Licensing Officer and/or Members should be made in the presence of the other parties (or their representatives if there is a large scale public interest).
- 4.18 Members and Officers are obligated not to waste Council resources and, as such, a site visit is only likely to be necessary if:
- the impact of the proposed application is difficult to visualise from the plans and any supporting material, including photographs taken by officers (although if that is the case, additional illustrative material should have been requested in advance); or
  - there is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.
- 4.19 Where there is substantial public interest in a proposal and relevant representations have been made, the Council may invite all parties to visit the site so that they may point out all the areas of contention to Members of the Licensing Committee and give their views. A note of proceedings will be taken at these meetings and minutes kept as part of the official record.
- 4.20 Results of the site visit will be reported to the next available meeting of the Committee.
- 4.21 Once the results of a site visit have been reported back to Committee, Members of the Committee who were not present at the site visit can ask questions, offer opinions, take part in discussions and vote in relation to that Licensing application.

#### The Role of Ward Councillors and MPs on Site Visits

- 4.22 Where relevant representations have been made Ward Councillors and MPs may attend and participate in site visits putting forward their point of view. However, the determination of Licensing applications rests solely with the Licensing Committee and no indication should be given by Members of the Committee of the likely decision during the course of the site visit.

### **5. MEETINGS OF THE LICENSING COMMITTEE**

- 5.1 A Member shall not vote in relation to any Licensing application unless he or she has been present in the meeting of the Licensing Committee for the whole of the deliberations on that particular application.
- 5.2 A senior legal officer should always attend meetings of the Licensing Committee to ensure the probity and propriety of the Licensing and decision-making processes.
- 5.3 Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chairman prior to dealing with the next agenda item, by requesting from each member as to how they have voted, noting this and the member's name.
- 5.4 Chairmanship – The chairman should ensure
- 5.4.1 Members' comments at Committee only relate to the relevant merits of the application before them;
  - 5.4.2 reference at Committee to matters which are not relevant should be disregarded;
  - 5.4.3 the cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined; and done in accordance with the appropriate Procedural Rules for the Hearing in question.

### **6. TRAINING**

- 6.1 Members dealing with Licensing issues will be required to attend a training session each year to receive guidance in relation to Licensing regulations and procedures and on declaration of personal or prejudicial interests. Training will be conducted in accordance with the Training for Councillors standard. Members who fail to attend such training will be excluded from meetings of Licensing Committee. This training should include a balance of the following:-
- • Short (half day) sessions on special topics of interest or where appeals have indicated problems with Licensing policy;
  - • Special topic groups to consider thorny issues in depth;
  - • Formal training by internal and external speakers;
  - • Quick presentations by officers on hot topics, e.g. new legislation, white papers and their impacts, followed by a brief question and answer session;

### **7. LICENCE APPLICATIONS SUBMITTED BY COUNCILLORS AND OFFICERS**

- 7.1 Serving Councillors or their relatives who act as agents for people pursuing a Licensing matter will not be permitted to play any part in the decision making process for that proposal. Similarly, should they or their relatives submit their own proposal to the Council, they will take no part in its processing, as in both cases they will have an interest in the matters.

- 7.2 In cases where officers of this Department or members of their family submit a licence application, or where they have an interest in a particular application they should inform the Director of Regulation and Enforcement and Monitoring Officer accordingly. (eg- where an application is submitted by a limited company and an Officer is a director (or similar) of the company).

## **8. REGISTRATION AND DECLARATION OF INTERESTS**

The Localism Act 2011 and the Birmingham Code of Conduct for Members place requirements on Members on the Registration and Declaration of their interests and the consequence for the Members participation in consideration of an issue in the light of those interests. These requirements must be followed scrupulously and Members should review their situation regularly. Guidance on the registration and declaration of interests is dealt with by the Birmingham Code of Conduct for Members.

## **9. COMPLAINTS ABOUT THE DETERMINATION OF LICENSING APPLICATIONS**

- 9.1 Whatever procedures the City Council operates, it is likely that complaints will be made. However, the adoption of the advice in this guidance should greatly reduce the occasions on which complaints are justified. It should also provide less reason for people to complain in the first place.
- 9.2 There is a city-wide procedure for dealing with complaints, as well as customer comments and compliments. Complaints alleging a breach of the Birmingham's Code of Conduct for Members must be reported to the Monitoring Officer.
- 9.3 So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. The guiding rule is that every application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, why and how it had been reached. Particular care needs to be taken with applications determined under the powers delegated to the Director of Regulation and Enforcement, where there is no report to a Committee. Such decisions should be well documented and form part of the case file. It is preferable to use the complaints procedure prior to any recourse to the Local Government Ombudsman.
- 9.4 Where any right of appeal exists against a decision of the Licensing Committee, that right is to be communicated at the time of the notification of decision.

## **10. CONCLUDING REMARKS**

- 10.1 Maintaining high ethical standards enhances the general reputation of the City Council, its Members and its officers. Open and transparent decision making enhances local democracy and should lead to better informed citizens. A common understanding of the various roles, responsibilities and accountabilities should also enhance citizen participation. This Licensing Code, along with Birmingham City Council's Code of Conduct for Members, therefore, serves an essential part in the local and corporate governance of Birmingham City Council

- 10.2 The City Council's Head of Paid Service, the Monitoring Officer and the Section 151 Officer have been consulted over this Licensing Code.
- 10.3 If any person believes that a Member or Officer has breached any aspect of this Licensing Code, s/he should refer the matter to the City Council's Monitoring Officer.

**Prepared by the (Joint) Acting City Solicitor and Monitoring Officer of Legal and Democratic Services and the Director of Regulation and Enforcement**



**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**12 JULY 2017**

**ALL WARDS**

**PROPOSAL TO INTRODUCE QUALITY RATING SYSTEM  
FOR PRIVATE HIRE OPERATORS**

1. Summary

- 1.1 A report was presented to this Committee in October 2014 to consider the development of a scheme to 'score' Private Hire Operators on their level of compliance with licence conditions and provide positive encouragement to improve standards. Consultation was arranged with the trade to discuss the proposals.
- 1.2 It is proposed that a quality rating, similar to that of Food Hygiene Rating Scheme from the Food Standards Agency, to be published on the Birmingham City Council website allowing members of the public to make informed choices.
- 1.3 The aim of the scheme is to promote the private hire trade within Birmingham and attempt to drive up service standards; making operators more accountable for the actions of their drivers.
- 1.4 It is anticipated that by publicising the rating of operators assessed under the scheme would give customers greater confidence in their choice of operator, hence increasing competition and driving up standards across the trade.
- 1.5 Your Committee resolved in July 2016 (Minute 699) that further consultation be held with the trade and the wider public prior to the introduction of any such scheme.
- 1.6 As the Quality Rating Scheme for private hire operators is dependent on the conditions of licence for private hire operators, which were only approved in April 2017, it was thought prudent to bring an amended scheme back to Committee prior to any further wider consultation.

2. Recommendation

- 2.1 If Committee approve the proposed Quality Rating Scheme for private hire operators in principle; then Officers will carry out a final consultation with the trade, with responses to that consultation to be reported to this Committee in September with a view to implement the scheme from October 2017.

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Originating Officer: Shawn Woodcock, Licensing Operations Manager

### 3. Background

- 3.1 The Food Hygiene Rating Scheme is operated by over 300 Local Authorities in England and evidence suggests that publicising food hygiene scores has brought about improvement in levels of hygiene.
- 3.2 It is anticipated that publicising compliance with Private Hire Operator Conditions would increase compliance and, in turn, increase safety standards for members of the public.

### 4. Proposal

- 4.1 The proposed scheme will cover all licensed Private Hire Operators, within Birmingham, and the scoring of the business will be based on compliance with the indicators listed on the assessment form, attached as appendix 1.
- 4.2 There are 47 items on which each operator will be assessed. One point will be allocated for compliance with all aspects of each item.
- 4.3 In an attempt to make operators more accountable for their drivers, 5 points will be deducted if a driver representing their company is cautioned or prosecuted for plying for hire.
- 4.4 There will be 2 types of indicator on which the assessments will be based.  
**Essential** criteria: based on the new proposed conditions approved in April 2017 and which will be attached to each operator licence; and  
**Bonus** criteria: evidence of written policies and procedures to demonstrate best practice, support of their own staff through training and implementing measures to enhance the consumer experience and safety.
- 4.5 There are 28 Essential criteria and 19 Bonus items.
- 4.6 Each operator will then be allocated a quality rating based on their score:
- ≤10 points– Licensed.
  - 11 - 20 points – Bronze.
  - 21 - 30 points – Silver.
  - 30 - 45 points – Gold.
  - >45 – Platinum.
- 4.7 It is anticipated that assessments will be on an annual basis, conducted during routine inspections. If an operator wishes to make improvements and apply for a secondary inspection, they may do so on payment of a fee, which has yet to be determined, but will be set in order to recover costs.
- 4.8 The results of the quality rating will be published on the City Council website and individual operators will be able to advertise their own score to promote their own company.
- 4.9 The current Conditions of Licence for Private Hire Operators is attached as Appendix 2 for information.



## 5. Consultation

- 5.1 The proposal to introduce a rating scheme was discussed at an open forum meeting in the Council Chamber on 12 February 2015 to which all private hire operators were invited.
- 5.2 The event was attended by 12 people representing eight operators.
- 5.3 A small number of operators accepted the idea of a scheme in principle; however, the majority of those attending were strongly opposed to the idea.
- 5.4 All agreed that before any such scheme could be implemented then the conditions of licence should be reviewed first as they were “not fit for purpose”, according to the operators that were present.
- 5.5 As a result of this consultation the private hire operator’s conditions have been reviewed and new draft conditions were presented to and approved subject to minor amendments by this committee in April 2017.
- 5.6 Other questions raised in 2015 included
  - Exemptions for those operators doing contract work only.
  - What systems are in place to identify a need for a scheme, and
  - The introduction of a Policy to deal with PLYERS

## 6. Implications for Resources

- 6.1 At this stage there are no implications for resources; assessments would be conducted alongside routine operator inspections requiring minimal extra time. Current licensing fees cover the costs of these inspections. However, it will be necessary to set a fee to recover the cost of rescored an operator who asks for this to be done.

## 7. Implications for Policy Priorities

- 7.1 The activity described in this report contributes to the key aim of your Committee to improve standards of licensed people, premises and vehicles in the City.
- 7.2 In addition to helping to drive up private hire operator standards in Birmingham, the quality rating scheme allows members of the public to make informed choices about which businesses they wish to give their custom to. Both of these outcomes support the City Council’s strategic objective ‘Stay Safe in a Clean, Green City’.

8. Public Sector Equality Duty

- 8.1 No specific implications have been identified. The Quality Rating Scheme will relate to managerial processes at each private hire operator business, not to individual people and every operator will be subject to it.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: nil

## APPENDIX 1

### Scoring System

**E** – Essential criteria    **B** – Bonus criteria

SECTION & CONDITION NUMBER OR BONUS POINT	INDICATOR	TICK TO AWARD POINT	E or B
<b>STAFF</b>			
12, 13	Responsible Person on site and fully aware of conditions of licence		E
B	Is this documented? (if 'yes' award point)		B
11	Staff Register		E
11	Supporting documents		E
B	Is there a documented Management rota? (if 'yes' award point)		B
B	Documented Staff Training in respect of how to answer calls and dealing with complaints		B
B	Written staff disciplinary procedure		B
<b>DRIVERS &amp; VEHICLES</b>			
B or N/A	Operating out of town vehicles? Checks made with relevant licensing authority and insurance companies to verify documentation & advising them that vehicle being operated within Birmingham. This must be evidenced by way of letter/e-mail from insurer and local authority.		B
B	Routine, documented, vehicle checks conducted ( inc. price lists displayed prominently)		B
B	Receipts issued to all customers as a matter of course identifying driver		B
B	Written contract between operator and driver outlining dress code, code of conduct, issue of receipts		B
B	Written driver disciplinary procedure		B
<b>RECORD OF BOOKINGS</b>			
30	Able to print out records from computer system at all times		E
31 (ai) or (aii)	Name & Signature or Code of person making record		E
31b	Time & date of booking		E
31c	Name of Hirer (not 'see staff' or 'as directed')		E
31d	Time & pick up point		E
31e	Place of destination (not 'as directed' or 'local')		E
31f	Time vehicle allocated to booking		E
31g	Driver call sign or registration number of vehicle allocated to booking		E
31i	If applicable, the name of the other operator from whom a booking was received and / or to whom the booking was subcontracted.		E
32	Destinations recorded properly		E
35	Records kept for 12 months and readily available for inspection		E
<b>DOCUMENTS TO BE KEPT BY THE OPERATOR</b>			
6, 7, 8	Copy of licence on display or available for inspection		E
36	Up to date driver & vehicle list with all required information (inc start & finish dates)		E
4	List forwarded to Licensing Monthly		E
37a	No PHD licences missing		E
37b	No PHV licences missing		E
37c	No MOT missing		E
37d	No insurance missing		E
38	Documents kept for 12 months and available for inspection		E

**E** – Essential criteria    **B** – Bonus criteria

SECTION & CONDITION NUMBER OR BONUS POINT	INDICATOR	TICK TO AWARD POINT	E or B
<b>ASSISTANCE DOGS &amp; WHEELCHAIR USERS</b>			
B	Written policy		B
B	Documented staff training		B
B	Wheelchair accessible vehicle on fleet		B
<b>COMPLAINTS</b>			
39	Evidence of a complaints procedure		E
39a	Name, contact details of complainant and date received		E
39b	Date, time and details/nature of complaint		E
39c	Name of driver (and badge number) or member of staff, to which the complaint relates		E
39d	Details of action taken		E
B	Is complaints procedure documented?		B
41	Records kept for 12 months and available for inspection		E
B	Documented staff training on procedure		B
<b>EXTRAS</b>			
B	Customer informed of type of vehicle being despatched to booking		B
B	Basic 'ring back' that vehicle arrived		B
B	Child car seats available for driver use if requested by customer		B
B	Driver uniform/Dress code		B
B	First Aid Training for drivers		B
<b>SCORE</b>			
NEGATIVE POINTS (-5 points)	Driver representing company cautioned or prosecuted for plying for hire		
<b>FINAL SCORE</b>			

## PRIVATE HIRE OPERATORS CONDITIONS OF LICENCE

**This licence is granted subject to the following conditions. Failure to comply with these conditions could lead to a criminal prosecution and/or your licence being suspended, revoked or not renewed.**

If you are aggrieved by any of the conditions attached to this licence you may make an application for exemption from them and attend a hearing before the Licensing Sub Committee, alternatively you can appeal to a Magistrates Court within 21 days of the service of this licence on you.

If you have any difficulty in understanding or complying with any of the conditions below, please let the Licensing Office know immediately so that arrangements can be made to assist you in that respect.

These conditions are attached to your licence in addition to any other legal requirements to which you are required to comply. These include, but are not restricted to, the Local Government (Miscellaneous Provisions) Act 1976, the Health and Safety at Work etc. Act 1974

### CONDITIONS

#### INFORMATION TO BE REPORTED TO THE LICENSING OFFICE

1. You must notify the Licensing Office, in writing, of the name and details of any individual to be nominated as a Responsible Person for managing your business in your absence at least **7 days** prior to their commencement in that role.
2. You must notify the Licensing Office, in writing, within **7 days** if you, or any individual or company named on the application form or a currently appointed Responsible Person
  - a) is convicted of any criminal or motoring offence
  - b) is cautioned for any criminal or motoring offence (by the Police or any other agency)
  - c) receives a Magistrates' Court summons
  - d) receives a fixed penalty notice for any criminal or motoring offence
  - e) receives a police warning or court order in relation to harassment or any other form of anti-social behaviour
  - f) receives a civil or family law injunction
  - g) is arrested for any offence (whether or not charged)
  - h) is charged with any criminal offence.
  - i) is refused any type of licence by any other regulatory authority or any such licence is suspended, revoked or not renewed
  - j) changes home address
  - k) if any company or limited liability partnership changes its registered office
  - l) if any changes are made in the ownership/management/partnership of the operation as specified in your application form.
  - m) If a Responsible Person ceases to be employed in this capacity

3. When notifying the Licensing Office of any matters required by Condition 2. You must provide full details of any such matter and if asked, provide any further information that might reasonably be asked for by an authorised officer.
4. You must provide the Licensing Office an updated Driver and Vehicle List on the first of every month. This list should include **all** drivers and vehicles operated by you for the purposes of private hire and their call signs.
5. When supplying information to the Licensing Office this **MUST** be in writing but can be provided by post, in person or via email.

#### **DISPLAY OR PROVISION OF A COPY OF THE LICENCE**

6. If the public have access to your premises your licence and the conditions attached to it must be prominently displayed in a position that is clearly visible.
7. If the public do not have access to your premises then upon request you must either provide a copy or permit any member of the public to view a copy of your licence and conditions attached to it.
8. If you have a website a copy of your licence and conditions attached to it must be available on your website.
9. In respect of these copies of your licence either on display, on request or online you may redact your personal address if shown on the licence.

#### **STAFF**

10. No person other than a director, partner, employee or contractor shall be engaged in any aspect of the business.
11. You must keep and maintain at the licensed premises a register of all such persons, which shall include
  - (a) their full name
  - (b) date of birth
  - (c) home address
  - (d) national insurance number
  - (e) contact telephone number
  - (f) any call sign/codes they are allocated
  - (g) the dates their employment commenced/terminated
  - (h) documentary proof of identification
  - (i) documentary proof that each has been registered with HMRC as an employee
  - (j) documentary proof of their right to work in the UK
12. Either you or a Responsible Person over the age of 18 and notified by you in writing to the Licensing Office pursuant to Condition 1 must be in charge of the operation and immediately contactable by an authorised officer or police constable at any time during the hours of operation.
13. You must ensure that any Responsible Person left in charge of the premises in your absence is fully aware of these conditions of licence, the need to comply with them and be able to produce the records to an authorised officer or police constable on request.

14. The aforementioned register must be retained at the premises and be made available to an authorised officer or police constable for inspection at any time during the hours of operation.

## **STATIONERY AND ADVERTISEMENTS**

15. You must not advertise your private hire business or use stationery
- (a) with a trading name that is not included in your Private Hire Operator's licence
  - (b) showing your trading name in a different style/format of letters, numbers or logos
  - (c) which includes any references or information which may be misleading to the public
- without obtaining the prior written approval of the Licensing Office
16. You must not advertise your private hire business in a manner which gives rise to confusion with another private hire operator licensed by this Council or any other neighbouring council.
17. No notice, sign or advertisement seeking to advertise or promote your business of a private hire operator, wherever it is displayed, shall consist of or include the words "TAXI" or "CAB" or "For Hire" whether in the singular or plural, or any words or devices which give any indication that the service to which the notice, sign or advertisement relates is that which can only be provided by a licensed Hackney Carriage.
18. You must ensure that staff answering your private hire telephone number(s) does so by using your trading name only.
19. If you do not issue an electronic receipt to the customer, you must provide drivers with stationery that they can use for issuing receipts. Electronic receipts shall include your trading name, details of the driver, the journey and fare paid. Stationery shall include your trading name and have spaces for the driver's call sign, details of the journey and fare paid to be recorded.

## **DRIVERS AND VEHICLES**

20. Private Hire Operators in the City of Birmingham shall only operate with vehicles and drivers licensed by the Birmingham City Council and shall operate only from premises within the City boundary.
21. Mobile phones or smart phones are not allowed to be used, installed, fitted to or carried in any private hire vehicle for the purpose of inviting, passing or accepting bookings for that vehicle.
- The only exception to this is where a smart phone is installed specifically to host an app. designed for the acceptance of bookings from you.
22. Should a taximeter be fitted to any private hire vehicle operated by you, you must ensure that it has been tested, sealed and certified to have been calibrated and set to your tariff(s) before it can be used for calculating fares for passengers.
23. If technology is provided by the operator to enable route planning and fare calculation they should ensure that drivers proceed to the destination by shortest possible route,

through the programming of any technology provided by the operator, which is designed to assist drivers in route planning and calculation of fares.

Deviating from the shortest possible route is only allowed when the driver obtains the agreement of the passenger to do so.

## **VEHICLE IDENTITY PLATES AND SIGNAGE**

24. You must ensure that every private hire vehicle operated by you is issued with such operator signs and notices as may be required for the vehicle to be compliant with the requirements of the City Councils Vehicle Signage Policy and approved in writing by the Licensing Office. No other signage is permitted.
25. You must not change the design of your operator signs without obtaining the prior written approval from the Licensing Office.
26. Only one approved door sign design is to be in use at any one time. All previous versions must be removed from circulation within 14 Days of a new approved sign being introduced.

## **RECORDS OF BOOKINGS**

27. You must keep a record of every private hire booking either in writing in a suitable hard back book which has consecutive page numbers or a proprietary computerised booking and dispatch system.
28. If you use a book you must ensure the entries are clearly and easily legible, with no line spaces or blank pages.
29. Should you wish to use change your computerised system, then you must first notify, in writing, the Licensing Office.
30. If you have a computerised booking system, you must ensure it is able to produce a print out of any records requested by an authorised officer or police constable at all times.
31. At the time of accepting each booking an entry shall be made in the record book or computerised booking and dispatch system that shall include:
  - ai) The name and signature of the person making the record and the radio operator for each period of duty - Record Book only
  - aii) The code for the person making the record - Computerised system only
  - b) The date on which the booking is made and, if different, the date of the proposed journey
  - c) The name of the person for whom the booking is made or, if more than one person, the name of one of them
  - d) The agreed time and place of collection, or, if more than one, the agreed time and place of the first place of collection
  - e) The destination
  - f) The time a vehicle was allocated to the booking
  - g) The driver's call sign or registration number of the vehicle allocated the booking
  - h) The fare agreed for the journey (where appropriate)
  - i) If applicable, the name of the other operator from whom a booking was received and / or to whom the booking was subcontracted.



32. Recording destinations - The very minimum you should record is the street and postal area of the main destination (e.g. Stratford Road, Hall Green) or the place (e.g. The Robin Hood, Stratford Road). At best it should be the full postal address (e.g. 1456 Stratford Road, Hall Green, B28 9ES). It is not sufficient to record just the postal area (e.g. Hall Green) as that would cover too wide an area. However where you know the full postcode (e.g. B28 9ES) that will suffice, as it would identify the street destination.
33. When allocating a booking to a driver, you must provide them with all of the following details:
- a) the name of the person for whom the booking is made
  - b) the agreed time and place of collection
  - c) the destination
  - d) the fare agreed (if applicable).
34. You must not accept or record details of any booking passed to you by a driver.
35. Your records of all private hire bookings, whether retained in a book or on a computerised system, must be kept at your licensed premises for at least 12 months and be readily available for production to an authorised officer or police constable for inspection at any time during the hours of operation.

## **DRIVER AND VEHICLE RECORDS AND DOCUMENTS**

36. You must keep and maintain an up to date record of **all** the drivers and vehicles operated by you for the purposes of private hire on a Driver and Vehicle List, which must include:
- a) the call sign allocated to the driver/vehicle
  - b) the driver's name and private hire badge number
  - c) the vehicle's registration and private hire plate numbers
  - d) the date the driver joined you and, if applicable, ceased working for you.
37. You must obtain and retain the following documentation in respect of every vehicle and driver you operate prior to allocating them any bookings, namely:
- a) a copy of the driver's current private hire driver's licence or badge
  - b) a copy of the vehicle's current private hire vehicle licence or front identity plate
  - c) a copy of the vehicle's current MOT certificate
  - d) a copy of the vehicle's current insurance certificate or cover note in respect of the driver using the vehicle.
  - e) a copy of the Taximeter Calibration Certificate, where appropriate
38. The above documentation relating to vehicles and drivers must be retained at your licensed premises for at least 12 months after a vehicle or driver ceases to undertake work for you and be readily available for production to an authorised officer or police constable for inspection at any time during the hours of operation.

## **COMPLAINTS**

39. You must establish a complaints procedure and take all reasonable steps to fully investigate any complaints, ensuring a record is kept of the following information:
- a) the name, contact details of complainant and date complaint received
  - b) the date, time and details/nature of the complaint

- c) the name of the driver (and Badge number) or member of staff, to which the complaint relates
- d) details of the investigation carried out and any action taken.

40. Upon receiving a complaint or allegation concerning:

- a) sexual misconduct, sexual harassment or inappropriate sexual attention
- b) racist behaviour
- c) violence
- d) dishonesty such as overcharging, theft or retention of lost property
- e) breach of equality legislation, such as refusing to carry an assistance dog

regarding any person licensed by Birmingham City Council you must report it immediately when the licensing office is open, and in any other event immediately upon the Licensing Office next opening.

41. Your records of complaints, whether retained in a book or on a computerised system, must be kept for at least 12 months at your licensed premises and be readily available for production to an authorised officer or police constable for inspection at any time during the hours of operation.

## **PASSENGER SERVICE VEHICLES**

42. Where a PHV operator also holds a PSV operator's licence, PSV's should not be used to fulfil bookings except with the informed consent of the hirer. This consent shall be recorded as part of the booking record.

For example, if a member of the public contacts a PHV operator and seeks a booking for a party of fewer than nine passengers it cannot be reasonable to assume a PSV is required unless there are other factors, e.g. a large amount of baggage, or a need for a wheelchair accessible vehicle which would not otherwise be available. If there is no good reason to use a PSV for a booking for fewer than nine passengers, the difference in licensing requirements should be explained and explicit consent obtained.

## **BIRMINGHAM CITY COUNCIL**

### **REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**12 JULY 2017**  
**ALL WARDS**

#### **ACCESS FOR WHEELCHAIR USERS TO TAXIS AND PRIVATE HIRE VEHICLES**

##### **1. Summary**

- 1.1 The Equalities Act 2010 replaced the Disability Discrimination Act 1995, in defining the duty of hackney carriage and private hire drivers not to discriminate against people with disabilities.
- 1.2 In April 2017, certain elements of the Act which had not hitherto been enacted came into law. One of these relates directly to the role of Birmingham City Council as a Licensing Authority in formulating and maintaining a list of wheelchair accessible vehicles. Another makes it illegal for a driver of a wheelchair accessible vehicle included on the list to refuse to carry a wheelchair, unless he has been issued with a medical exemption.
- 1.3 This report seeks to inform members of the current arrangements for wheelchair accessible vehicles and to detail transitional arrangements to bring Birmingham's Licensing Service into line with the national requirement as outlined in the Statutory Guidance document attached as an appendix to this report.

##### **2. Recommendation**

- 2.1 That the report be noted.

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E-mail: [chris.arundel@birmingham.gov.uk](mailto:chris.arundel@birmingham.gov.uk)

### 3. Background

- 3.1 The Disability Discrimination Act 1995 introduced protections for people living with disabilities, including anti-discrimination legislation aimed at protecting those using licensed hackney carriage and private hire vehicles. Unfortunately much of the legislation referred to specifications for vehicles and future amendments which did not materialise before the Act was superseded by the Equalities Act 2010.
- 3.2 When the Equalities Act 2010 came into effect much of the older Act was transferred into the new legislation and new elements were introduced. One such element allowed for the creation by a local authority of a list of wheelchair accessible vehicles and legal penalties for the drivers of such vehicles if they were found to have refused a wheelchair passenger or engaged in certain other discriminatory practices. Although included when the Act was passed into law, the relevant parts, Sections 165 which designates the duties and responsibilities of a driver using a vehicle included on the list and the penalties which can be imposed for failure to comply and 167 which allows for the creation of the list by the local licensing authority were not enacted.
- 3.3 Birmingham already had a policy in place requiring all hackney carriage vehicles be wheelchair accessible and whilst the number of wheelchair accessible private hire vehicles was negligible it made sense to use the public register as our list of designated vehicles. However, now the additional elements are in place Birmingham must formally adopt a list of designated wheelchair accessible vehicles in compliance with Section 167 or our drivers will not be subject to the requirements or to the legal penalties applicable under Section 165 for non-compliance.
- 3.4 Section 166 of the Act allows a driver to seek exemption from the requirement to offer the physical help to disabled passengers required by Section 165, on physical or medical grounds. A mechanism to do this is already in place in Birmingham.

### 4. Ongoing Actions

- 4.1 As there are relatively few licensed private hire vehicles in Birmingham which are wheelchair accessible and many of those which are were licensed for the purpose of serving a specific NHS contract, the starting point for creating a compliant list will be the public register for hackney carriage vehicles. As all Birmingham licensed hackney carriages are required to be wheelchair accessible, this will designate a fleet of slightly more than 1200 wheelchair accessible vehicles.
- 4.2 A new report based on the one currently used to produce the public register for hackney carriages will be created and modified to include the additional information, make, model, passenger capacity etc. required for compliance with Section 167. Vehicle proprietors will be contacted by letter and advised

their vehicle is to be included in the list of designated wheelchair accessible vehicles. The same letter will advise proprietors of their right to appeal to Birmingham Magistrate's Court if they believe they have grounds to have their vehicle removed from the list.

- 4.3 In addition officers will write to all licensed drivers to advise them of the intention to produce a list of designated vehicles. They will be invited to apply for a medical exemption, if they will be driving a vehicle likely to appear on the list when they personally have a physical or medical condition which would prevent them complying with the requirements of Section 165.
- 4.4 Drivers who already hold an exemption will be requested to produce their exemption at the Licensing Service office, so their details can be updated and a new exemption certificate issued compliant with the requirements of the Act. It should be noted that DfT has yet to prescribe the form, or the manner of display for exemptions, but the Statutory Guidance does allow local licensing authorities to produce their own in accordance with the regulations.
- 4.5 Section 166 gives powers to local licensing authorities to make such exemptions, but suggests assessments should be carried out by suitably qualified persons. As our exemption requests are currently assessed by the Occupational Health Service, it makes sense to continue that practice, which would appear to be in line with Government expectations as expressed in the Statutory Guidance.

## 5. Private Hire Vehicles

- 5.1 At present requests to license wheelchair accessible vehicles for the purpose of private hire are dealt with by Licensing Sub Committees on a case by case basis, however, following an increase in enquiries related to licensing wheelchair accessible vehicles it is proposed a suitable specification should be developed and presented to your Committee for approval under a separate report. If a standard can be agreed, only non-compliant vehicles would then need to be considered by Committee.
- 5.2 New private hire vehicles licensed as wheelchair accessible vehicles will be added to the list of wheelchair accessible vehicles as and when they become licensed. The status of existing vehicles can be checked on renewal and where appropriate action taken to add vehicles to the list, subject to the consent of the proprietor, or finalisation of an appeal.

## 6. Implications for Resources

- 6.1 The cost of producing and publishing a compliant list of wheelchair accessible vehicles and the additional cost of writing to drivers and proprietors as outlined above will be met from funds already allocated to hackney carriage and private hire budgets.

## 7. Implications for Policy Priorities

- 7.1 The contents of this report contribute to the protection, safety and welfare of disabled residents and visitors to the City by ensuring the drivers of licensed vehicles who choose to discriminate against passengers in wheelchairs can face prosecution where appropriate.
- 7.2 It also assists in promoting improvements in the standards of services provided by licence holders across the City and contributes to the Council's strategic outcome of staying safe in a clean, green city.

## 8. Public Sector Equality Duty

- 8.1 Birmingham City Council takes its duty to look after the interests of passengers with disabilities seriously; all applicants for a hackney carriage or private hire driver's licence will continue to be required to attend mandatory disability awareness training and the policy requiring all vehicles licensed as hackney carriages to be wheelchair accessible remains in place. The actions described in this report are taken in order to comply with Statutory Guidance issued by Department for Transport in response to the enactment of certain parts of the Equalities Act 2010. For this reasons officers do not consider it necessary to conduct an Equalities Assessment to accompany this report.

## 9. Consultation

- 9.1 This report informs the Committee of changes that the Licensing service is required to make by virtue of national legislation. As part of the process of compiling a list of wheelchair accessible vehicles, all those drivers affected will receive a letter to tell them that their vehicle is being placed on the list and they will have the opportunity of explaining why they should not be on the list (on medical grounds) and of appealing to the Magistrates Court.

## **ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: None



Department  
for Transport

# Access for wheelchair users to Taxis and Private Hire Vehicles

## Statutory Guidance

**Moving Britain Ahead**

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# Ministerial Foreword



This Government is committed to ensuring that transport works for everyone, including disabled people. Since joining the Department for Transport in 2015, and taking on Ministerial responsibility for transport accessibility, I have made it my mission to challenge the status quo and encourage innovative thinking to improve access to transport across the modes.

I know however, that despite the real improvements which have taken place in recent years, some disabled passengers still face discrimination when attempting to travel. I am clear that this is unacceptable.

Owners of assistance dogs are already protected by provisions in the Equality Act 2010 which make it unlawful to refuse or charge them extra. I want similar protections to apply to wheelchair users, which is why I am delighted that we have commenced the remaining parts of sections 165 and 167 of the Equality Act 2010, making it a criminal offence for drivers of designated taxi and private hire vehicles to refuse to carry passengers in wheelchairs, to fail to provide them with appropriate assistance, or to charge them extra. I hope that in so doing we will send a clear signal to the minority of drivers who think it acceptable to discriminate on grounds of disability that such behaviour will not be tolerated – and, more importantly, to enable wheelchair users to travel with confidence.

A handwritten signature in blue ink that reads "Andrew Jones". The signature is written in a cursive, flowing style.

**Andrew Jones MP,  
Parliamentary Under Secretary of State, Department for Transport**

# 1. Introduction

## Status of guidance

- 1.1 This guidance document has been issued in order to assist local licensing authorities (LAs) in the implementation of legal provisions intended to assist passengers in wheelchairs in their use of designated taxi and private hire vehicle (PHV) services. It provides advice on designating vehicles as being wheelchair accessible so that the new protections can apply, communicating with drivers regarding their new responsibilities and handling requests from drivers for exemptions from the requirements.
- 1.2 This is a statutory guidance document, issued under section 167(6) of the Equality Act 2010 and constitutes the Secretary of State's formal guidance to LAs in England, Wales and Scotland on the application of sections 165 to 167 of the Equality Act 2010. LAs must have regard to this guidance document.

## 2. Putting the law into practice

### Background

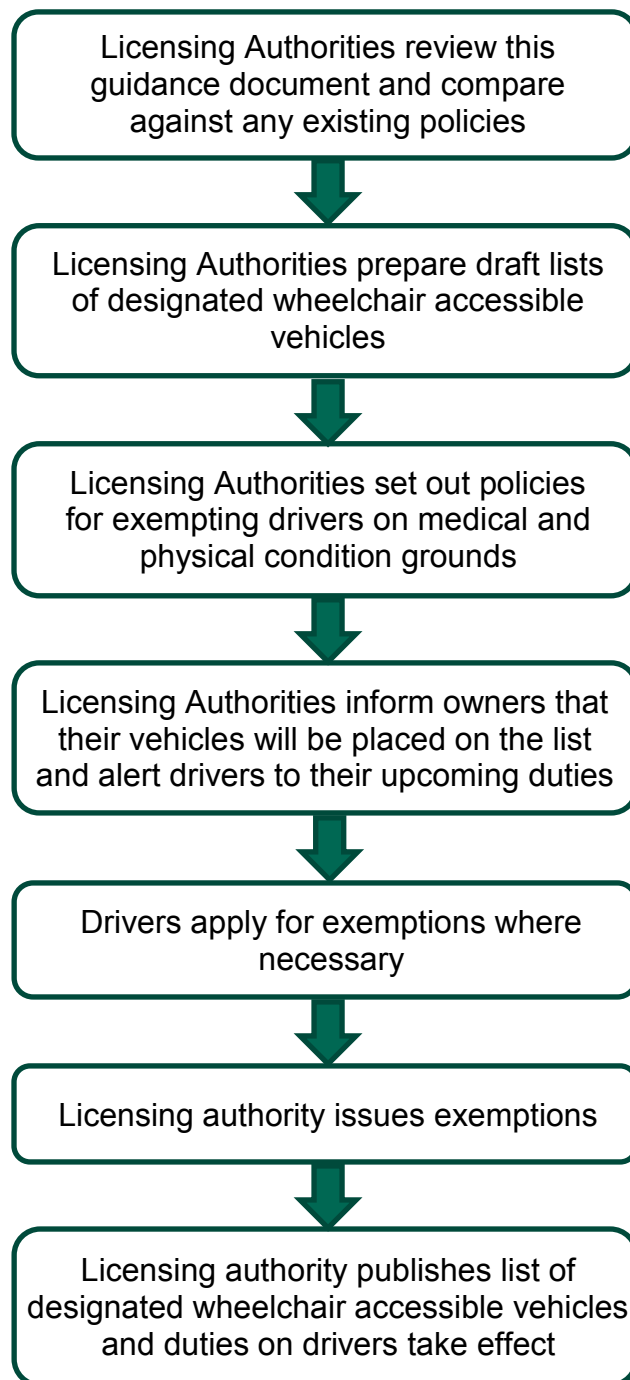
- 2.1 We have commenced sections 165 and 167 of the [Equality Act 2010](#) (“the Act”), in so far as they were not already in force. Section 167 of the Act provides LAs with the powers to make lists of wheelchair accessible vehicles (i.e. “designated vehicles”), and section 165 of the Act then requires the drivers of those vehicles to carry passengers in wheelchairs, provide assistance to those passengers and prohibits them from charging extra.
- 2.2 The requirements of section 165 do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. An exemption certificate can be issued under section 166 of the Act, which is already in force. This allows LAs to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver’s physical condition makes it impossible or unreasonably difficult for them to comply with those duties.
- 2.3 On 15<sup>th</sup> September 2010, the Department for Transport issued guidance on the Act which stated, in relation to section 167, *“although the list of designated vehicles will have no actual effect in law until the duties are commenced, we would urge licensing authorities to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates”*.
- 2.4 We therefore recognise that many LAs have already implemented some of these provisions, including publishing lists of wheelchair accessible vehicles and exempting drivers. Therefore, there are likely to be a range of approaches being used in practice by LAs across England, Wales and Scotland.

### Transitional arrangements

- 2.5 We want to ensure that the commencement of sections 165 and 167 of the Act has a positive impact for passengers in wheelchairs, ensures they are better informed about the accessibility of designated taxis and PHVs in their area, and confident of receiving the assistance they need to travel safely.
- 2.6 But we recognise that LAs will need time to put in place the necessary procedures to exempt drivers with certain medical conditions from providing assistance where there is good reason to do so, and to make drivers aware of these new requirements. In addition, LAs will need to ensure that their new procedures comply with this guidance, and that exemption notices are issued in accordance with Government regulations. This will ensure that we get a consistent approach and the best outcomes for passengers in wheelchairs.
- 2.7 As such, we would encourage LAs to put in place sensible and manageable transition procedures to ensure smooth and effective implementation of this new law. LAs should only publish lists of wheelchair accessible vehicles for the purposes of

section 165 of the Act when they are confident that those procedures have been put in place, drivers and owners notified of the new requirements and given time to apply for exemptions where appropriate. We would expect these arrangements to take no more than a maximum of six months to put in place, following the commencement of these provisions, but this will of course be dependent on individual circumstances.

- 2.8 A flowchart setting out the sorts of processes that a LA could follow is set out below. This is an indicative illustration, and it will be down to each LA to determine the actions they need to take to ensure this new law is implemented effectively in their area.



## 3. Vehicles

### Overview

- 3.1 Section 167 of the Act permits, but does not require, LAs to maintain a designated list of wheelchair accessible taxis and PHVs.
- 3.2 Whilst LAs are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra.

### Vehicles that can be designated

- 3.3 We want to ensure that passengers in wheelchairs are better informed about the accessibility of the taxi and PHV fleet in their area, confident of receiving the assistance they need to travel safely, and not charged more than a non-wheelchair user for the same journey.
- 3.4 The Act states that a vehicle can be included on a licensing authority's list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.
- 3.5 This means that to be placed on a licensing authority's list a vehicle must be capable of carrying some – but not necessarily all – types of occupied wheelchairs. The Government therefore recommends that a vehicle should only be included in the authority's list if it would be possible for the user of a "reference wheelchair"<sup>1</sup> to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.
- 3.6 Taking this approach allows the provisions of section 165 of the Act apply to a wider range of vehicles and more drivers than if LAs only included on the list vehicles capable of taking a larger type of wheelchair.
- 3.7 The Government recognises that this approach will mean that some types of wheelchair, particularly some powered wheelchairs, may be unable to access some of the vehicles included in the LA's list. The Act recognises this possibility, and section 165(9) provides a defence for the driver if it would not have been possible for the wheelchair to be carried safely in the vehicle. Paragraph 3.10 of this guidance below aims to ensure that users of larger wheelchairs have sufficient information about the vehicles that will be available to them to make informed choices about their journeys.

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<sup>1</sup> As defined in Schedule 1 of the [Public Service Vehicle Accessibility Regulations 2000](#)

## Preparing and publishing lists of designated vehicles

- 3.8 We want to ensure that passengers in wheelchairs have the information they need to make informed travel choices, and also that drivers and vehicle owners are clear about the duties and responsibilities placed on them.
- 3.9 Before drivers can be subject to the duties under section 165 of the Act, the LA must first publish their list of designated vehicles, and clearly mark it as 'designated for the purposes of section 165 of the Act'.
- 3.10 LAs should ensure that their designated lists are made easily available to passengers, and that vehicle owners and drivers are made aware. Lists should set out the details of the make and model of the vehicle, together with specifying whether the vehicle is a taxi or private hire vehicle, and stating the name of operator. Where possible it would also be helpful to include information about the size and weight of wheelchair that can be accommodated, and whether wheelchairs that are larger than a "reference wheelchair" can be accommodated.
- 3.11 However, we recognise that some passengers in wheelchairs may prefer to transfer from their wheelchair into the vehicle and stow their wheelchair in the boot. Although the legal requirement for drivers to provide assistance does not extend to the drivers of vehicles that cannot accommodate a passenger seated in their wheelchair, we want to ensure that these passengers are provided with as much information as possible about the accessibility of the taxi and PHV fleet in their area.
- 3.12 We would therefore recommend that LAs also publish a list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat within the vehicle. It should be made clear however that this list of vehicles has not been published for the purposes of section 165 of the Act and drivers of those vehicles are therefore not subject to the legal duties to provide assistance. Authorities may however wish to use existing licensing powers to require such drivers to provide assistance, and impose licensing sanctions where this does not occur.

## Appeals

- 3.13 Section 172 of the Act enables vehicle owners to appeal against the decision of a LA to include their vehicles on the designated list. That appeal should be made to the Magistrate's Court, or in Scotland the sheriff, and must be made within 28 days of the vehicle in question being included on the LA's published list.

## 4. Drivers

### Driver responsibilities

- 4.1 Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible taxis and PHVs.
- 4.2 The duties are:
- to carry the passenger while in the wheelchair;
  - not to make any additional charge for doing so;
  - if the passenger chooses to sit in a passenger seat to carry the wheelchair;
  - to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
  - to give the passenger such mobility assistance as is reasonably required.
- 4.3 The Act then goes on to define mobility assistance as assistance:
- To enable the passenger to get into or out of the vehicle;
  - If the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
  - To load the passenger's luggage into or out of the vehicle;
  - If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
- 4.4 Once the duties are commenced, it will be an offence for the driver (unless exempt) of a taxi or PHV which is on the licensing authority's designated list to fail to comply with them. We encourage LAs to provide drivers of taxis and PHVs who are not exempt from the duties with clear guidance on their duties with respect to the carriage of passengers in wheelchairs, either as part of existing driver-facing guidance, or as supplementary communication. The Disabled Persons Transport Advisory Committee's Disability Equality and Awareness Training Framework for Transport Staff<sup>2</sup> may provide a useful resource.
- 4.5 Although each situation will be different, we take the view that reasonable mobility assistance will be subject to other applicable law, including health and safety legislation. However, we would always expect drivers to provide assistance such as folding manual wheelchairs and placing them in the luggage compartment, installing the boarding ramp, or securing a wheelchair within the passenger compartment.
- 4.6 Depending on the weight of the wheelchair and the capability of the driver, reasonable mobility assistance could also include pushing a manual wheelchair or

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<sup>2</sup>

<http://webarchive.nationalarchives.gov.uk/20080804135759/http://www.dptac.gov.uk/education/stafftraining/pdf/trainingframework-nontabular.pdf>



light electric wheelchair up a ramp, or stowing a light electric wheelchair in the luggage compartment.

- 4.7 It is our view that the requirement not to charge a wheelchair user extra means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act, or the passenger enters, leaves or secures their wheelchair within the passenger compartment. We recommend that licensing authority rules for drivers are updated to make clear when a meter can and cannot be left running.

## Applying for and issuing exemptions

- 4.8 Some drivers may have a medical condition or a disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. That is why the Act allows LAs to grant exemptions from the duties to individual drivers. These provisions are contained in section 166, and were commenced on 1<sup>st</sup> October 2010.
- 4.9 Section 166 allows LAs to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical or physical grounds. The exemption can be valid for as short or long a time period as the LA thinks appropriate, bearing in mind the nature of the medical issue. If exempt, the driver will not be required to perform any of the duties. Since October 2010, taxi and PHV drivers who drive wheelchair accessible taxis or PHVs have therefore been able to apply for exemptions. If they do not do so already, LAs should put in place a system for assessing drivers and a system for granting exemption certificates for those drivers who they consider should be exempt.
- 4.10 We suggest that authorities produce application forms which can be submitted by applicants along with evidence supporting their claim. We understand that some licensing authorities have already put in place procedures for accessing and exempting drivers, and as an absolute minimum, we think that the evidence provided should be in the form of a letter or report from a general practitioner.
- 4.11 However, the Government's view is that decisions on exemptions will be fairer and more objective if medical assessments are undertaken by professionals who have been specifically trained and who are independent of the applicant. We would recommend that independent medical assessors are used where a long-term exemption is to be issued, and that LAs use assessors who hold appropriate professional qualifications and who are not open to bias because of a personal or commercial connection to the applicant. LAs may already have arrangements with such assessors, for example in relation to the Blue Badge Scheme.
- 4.12 If the exemption application is successful then the LA should issue an exemption certificate and provide an exemption notice for the driver to display in their vehicle. As section 166 has been in force since 2010, many LAs will already have processes in place for issuing exemption certificates, and as such we do not intend to prescribe the form that those certificates should take. We are however keen to ensure that passengers in wheelchairs are able to clearly discern whether or not a driver has been exempted from the duties to provide assistance, and as such will prescribe the form of and manner of exhibiting a notice of exemption.
- 4.13 If the exemption application is unsuccessful we recommend that the applicant is informed in writing within a reasonable timescale and with a clear explanation of the reasons for the decision.

## Demonstrating exemptions

- 4.14 In addition to the exemption certificate, exempt drivers need to be issued with a notice of exemption for display in their vehicle.
- 4.15 The Department will soon make regulations which will prescribe the form of and manner of exhibiting a notice of exemption. Where a driver has been exempted from the duties under section 165 of the Act, they must display an exemption notice in the vehicle they are driving in the form and manner prescribed by the regulations. If the notice is not displayed then the driver could be prosecuted if they do not comply with the duties under section 165 of the Act.
- 4.16 The Department aims to distribute copies of the notice of exemption to LAs, but they are of course free to produce their own in accordance with the regulations.
- 4.17 Only one exemption notice should be displayed in a vehicle at any one time.

## Appeals

- 4.18 Section 172 of the Act enables drivers to appeal against the decision of a LA not to issue an exemption certificate. That appeal should be made to the Magistrate's Court, or a sheriff in Scotland, and must be made within 28 days beginning with the date of the refusal.
- 4.19 LAs may choose to establish their own appeal process in addition to the statutory process but this would need to be undertaken rapidly in order to allow any formal appeal to the Magistrate's Court to be made within the 28 day period.

## 5. Enforcement

### Licensing measures and prosecution

- 5.1 It is important to note that a driver will be subject to the duties set out in section 165 of the Equality Act 2010 if the vehicle they are driving appears on the designated list of the LA that licensed them, and the LA has not provided them with an exemption certificate, regardless of where the journey starts or ends.
- 5.2 The Government expects LAs to take tough action where drivers breach their duties under section 165 of the Act.
- 5.3 LAs have wide-ranging powers to determine the rules by which taxis and private hire vehicles within their respective areas may operate. We recommend that they use these powers to ensure that drivers who discriminate against disabled passengers are held accountable.
- 5.4 If a driver receives a conviction for breaching their duties under section 165 of the Act, it would be appropriate for the authority to review whether or not they remained a fit and proper person to hold a taxi or PHV drivers' licence. The Government's presumption is that a driver who wilfully failed to comply with section 165 would be unlikely to remain a "fit and proper person".
- 5.5 Authorities might also apply conditions which enable them to investigate cases of alleged discrimination and take appropriate action, even where prosecution did not proceed.



**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**12 JULY 2017**  
**ALL WARDS**

**UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS**

1. Summary

- 1.1 This report provides Committee with an update on work being undertaken to improve the response to unauthorised encampments in the city since the last report on the 15<sup>th</sup> February 2017.

2. Recommendations

- 2.1 That the report is noted and outstanding minute number 811(ii) be discharged.
- 2.2 That Committee agree to a further report be brought in 3 months to update on the various work items contained within this report.

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### 3. Background

- 3.1 This report is an update on activities since February's Licensing and Public Protection Committee.
- 3.2 An unauthorised encampment is one which is established on land without the express permission of the landowner. The groups responsible generally comprise elements of Gypsy, Romany, Traveller or other ethnic groupings and are collectively known as travellers or more correctly GRT.

### 4 Appointment of Additional Support

- 4.1 Currently Environmental Health has two officers, with substantive roles in the waste enforcement team that are redirected as necessary to recover land from unauthorised encampments. These officers with some assistance from land owning department staff, primarily in Parks, have undertaken all of the interventions necessary to evict and recover council land for over 10 years. As previously reported a new procured supplier, Equita Ltd, has been appointed to assist in all aspects of dealing with recovering land from unauthorised encampments.
- 4.2 Equita have been operational for 4 months and have increased our flexibility. Since their appointment a number of encampments have been evicted on weekends whereas before these tended to be allowed to carry over into the following week. In addition notices to quit have been served on all days of the week.

### 5 Update on the Provision of a Transit Site

- 5.1 Meetings continue to be held with Housing, Legal Services and Planning & Regeneration to look into bringing forward the approved sites in the Birmingham Development Plan. These being Proctor Street and Aston Brook Street East, both in the Nechells Ward.
- 5.2 Proctor Street is the larger of the 2 sites and it is likely to accommodate approximately 10 pitches. Most of the encampments Environmental Health deal with are significantly larger in number, usually 20 to 40 caravans with assorted vehicles.
- 5.3 A number of other sites have been identified which could take the larger incursions. Currently the only one that is viable is the Bromford Drive Recycling site. This site is accessed from Bromford Drive and has been identified as surplus to the requirements of Parks. The site is secure, has water and sewerage and a large area of hard standing.
- 5.4 Lesley Steele, Project Manager from Place Directorate, has been appointed to oversee the decommissioning of the recycling centre and the transition to a transit site. As part of this process a pre-planning application has been submitted and is being progressed. The site will require planning approval to be brought into use as a transit site.

- 5.5 There are problems with the site in that it is identified as part of the pre-planning application being in a Cat 3 risk flood plain. All other large sites we have investigated are identified to meet the provision for new housing or HS2.
- 5.6 Additional work streams are being considered by Housing colleagues that includes short term tenancy agreements, procurement of an external company to manage the new site and a draft layout with a minimum and desired specification for the site.
- 5.7 Housing are currently in active dialogue with the occupiers of the Tameside Drive site with a view to regularising their occupation. This includes working closely with Legal Services to establish a common tenancy agreement for this and any future sites in the city.

## 6 Prosecutions

- 6.1 Section 33 of the Environmental Protection Act 1990 deals with the offence of “fly-tipping” which is the illegal deposit of controlled waste, including commercial waste from driveway construction and groundwork/landscaping activities etc. To secure a prosecution it must be proven, beyond reasonable doubt, which individual committed the offence by way of substantive evidence, for example catching an individual(s) in the act, by CCTV or an eye witness who is willing to give evidence. A prosecution cannot be based on a belief that the offence can be inferred to have been committed by someone in a group. In specific circumstances the law does allow the prosecution of people who are in control of a vehicle, used for fly-tipping, even if they do not actually carry out the fly-tipping. All prosecuting authorities are under a duty to only instigate legal action if there is sufficient evidence to give a realistic prospect of a positive result in court.
- 6.2 In April and May 2017 convictions were secured against two offenders who were residing at an encampment in the Kings Norton area in March. Through assistance from West Midlands Police the suspects were arrested, interviewed by officers from the councils Waste Enforcement Unit and subsequently charged. The individuals were convicted of being in control of two fly-tipping vehicles which were used to tip one tonne and 5 tonnes, respectively of construction and demolition waste and the details are shown below:

<b>Date Case Heard</b>	<b>Name</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>
24/04/17	Jerry Connors	Pleaded not guilty to one offence relating to being in control of a vehicle used to fly-tip controlled waste. Environmental Protection Act 1990	£816 fine £2,900 costs awarded (£81 Victim surcharge)

17/05/17	John Cassidy	Pleaded not guilty to three offences relating to being in control of a vehicle used to fly-tip controlled waste. Environmental Protection Act 1990	£1,560 fine (£520 x 3) Forfeiture of the fly-tipping vehicle ordered (Valued at £4,500). £2,084 costs awarded (£156 Victim surcharge)
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## 7. Red Diesel

- 7.1 Environmental Health have received a growing number of complaints alleging that red diesel is in wide spread use by people on the unauthorised encampments in Birmingham. An exercise was conducted by WM Police where three vehicles have been checked and there is no evidence of this being the case.

## 8. Injunctive Action

- 8.1 Following wider use of injunctive action being used in the region, we are testing the same powers in Birmingham for three parks in Selly Oak. Information is due to be laid at Court on the first week of July 2017.
- 8.2 A lead Anti-Social Behaviour Officer has been commissioned to look at widening the use of injunctive and antisocial behaviour action to protect residents and officers from aggressive behaviours. Our officer has been to Sandwell MBC and has collected their evidence bundle and is working with Council Solicitors to see if we can replicate their work. It is necessary to be able to prove similar problems for this to be possible.

## 9. Implications for Resources

- 9.1 The resources employed in carrying out the work detailed in this report are contained within the approved budget available to your Committee.

## 10. Implications for Policy Priorities

- 10.1 The protocol contributes to fulfilling the Council's vision (Vision 2020) set out in the *Council Business Plan for 2016*, specifically to provide 'thriving local communities' and to work towards delivering 'a healthy, happy city'.
- 10.2 The work also supports the Regulation and Enforcement Division's mission statement to provide 'locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors'.



11. Public Sector Equality Duty

- 11.1 The management of unauthorised encampments is a process that affects groups and individuals who are (mostly) from specific and defined ethnic minorities e.g. Romany Gypsies, Irish Travelers. The changes to the policy is covered by the existing Equality Assessments and will be updated when the regional assessments is brought forward.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil



**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**12 JULY 2017**  
**ALL WARDS**

**HOUSE OF LORDS SELECT COMMITTEE ON THE LICENSING ACT 2003**

1. Summary

- 1.1 This report summarises the findings of the House of Lords Select Committee on the Licensing Act 2003.

2. Recommendations

- 2.1 That the report be noted.
- 2.2 That a letter be sent to the appropriate Government Minister(s) on behalf of the Committee, asking that the Government allows Licensing Authorities to be permitted to set local fees under the Licensing Act 2003 at the earliest opportunity.

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### 3. Background

- 3.1 The House of Lords appointed a Select Committee on the Licensing Act 2003 on 25 May 2016. The purpose of the Select Committee was to carry out a review of how the Licensing Act 2003 had been implemented, with a view to understanding any lessons learned and to consider any proposals to amend the Act.
- 3.2 Evidence was presented to the Select Committee either by way of oral evidence or written evidence.
- 3.3 Birmingham City Council responded to the call for evidence in writing. A copy of our response is attached at Appendix 2. Additional information on the Select Committee along with further detail of all the evidence presented to it is available at: [parliament.uk/licensing-act-committee](http://parliament.uk/licensing-act-committee). The written evidence extends to 1039 pages.
- 3.4 The report of the Select Committee itself is almost 200 pages long. It is available to view online at: [www.publications.parliament.uk/pa/ld201617/ldselect/ldlicact/146/14602.htm](http://www.publications.parliament.uk/pa/ld201617/ldselect/ldlicact/146/14602.htm)
- 3.5 The Summary of Conclusions and Recommendations made by the House of Lords Select Committee is attached at Appendix 1 to this report. This document also includes officer comments on some of the more contentious recommendations, although many suggestions are simply noted.
- 3.6 Following the publication of the report, the Institute of Licensing (IoL) released an online survey seeking comments on these recommendations from their members. The deadline for such responses was 9<sup>th</sup> June 2017. Officers of the Licensing Management Team provided a response, which is attached at Appendix 3 to this report.
- 3.7 It should be noted that the IoL survey was informal and did not form a part of the Select Committee Review. It was a means of the Institute establishing the extent to which their members agree or disagree with the recommendations.
- 3.8 Some of the proposals of the select Committee will be implemented more swiftly than others. The majority of proposals put forward would require more detailed examination and changes to legislation, which will take time to effect.

### 4. Summary of Select Committee Findings

- 4.1 The summary of Select Committee Conclusions and Recommendations is attached at Appendix 1 to this report.

### 5. Implications for Resources

- 5.1 At this early stage there are no implications for resources, although, if the proposal to be able to set fees on a local basis were to be implemented, this

would hopefully reduce the current financial pressures caused by the existing fee structure. The Budget Monitoring report for month 2 that forms part of today's Licensing and Public Protection meeting agenda predicts a year-end overspend of £83,000 that is attributable to our inability to set local fees under the Licensing Act 2003.

6. Implications for Policy Priorities

- 6.1 This work supports the Regulation and Enforcement Division's mission statement to provide 'locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors'.

7. Public Sector Equality Duty

- 7.1 This report is for information only. An Equalities Impact Assessment is not required.

8. Consultation

- 8.1 The House of Lords Select Committee consulted widely in calling for evidence. Birmingham City Council Licensing Authority responded to the call for evidence in writing and our response is attached at Appendix 2. The timetable for the call for evidence in 2016 was such that it was not possible to consult with the Licensing and Public Protection Committee before sending our response, however, it was completed under Chair and Chief Officer's authority and was based on our experience of administering the Act as officers and elected members.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: nil

<p style="text-align: center;"><b>SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS OF THE HOUSE OF LORDS SELECT COMMITTEE. (With Officer Comments in grey)</b></p>
<p><b>The Background to the Act</b></p>
<p>1. We think it unfortunate that in the 11 years since the full implementation of the Licensing Act there have been piecemeal amendments made by nine different Acts of Parliament, a large number of significant amendments made by other Acts and by secondary legislation and further changes to licensing law and practice made by amendment of the section 182 Guidance. (Paragraph 54)</p>
<p>2. We regret that there will no longer be any opportunity for Parliament to scrutinise the Guidance in draft, nor even to ensure that there has been adequate consultation during its preparation. (Paragraph 55)</p>
<p>3. Assuming that minimum unit pricing is brought into force in Scotland, we recommend that once Scottish ministers have published their statutory assessment of the working of MUP, if that assessment demonstrates that the policy is successful, MUP should be introduced in England and Wales. (Paragraph 86)</p>
<p>4. We urge the Government to continue to look at other ways in which taxation and pricing can be used to control excessive consumption. (Paragraph 87)</p>
<p><b>The Licensing Process</b></p>
<p>5. We appreciate that we are perhaps more likely to receive evidence critical of the way the licensing process operates than evidence saying it operates well or better. We believe—we certainly hope—that most members of licensing committees take their responsibilities seriously, adopt a procedure which is fair and seen to be fair, are well advised, and reach sensible conclusions. But clearly reform of the system is essential. (Paragraph 116)</p>
<p>6. Sections 6–10 of the Licensing Act 2003 should be amended to transfer the functions of local authority licensing committees and sub-committees to the planning committees. We recommend that this proposal should be trialled in a few pilot areas. (Paragraph 154)</p>
<p>7. We believe that the debate and the consultation on transferring the functions of licensing committees and sub-committees to the planning committees must start now, and the pilots must follow as soon as possible. (Paragraph 155)</p>
<p><i>This was not included in the call for evidence, but a suggestion which resulted from some of the evidence presented to the Select Committee. Had this been included in the call for evidence, we would have had an opportunity to comment. Both planning and licensing committees are carried on in accordance with their own, different, legislative controls, with many of the same Members. We would seek to ensure that both the Licensing and Public Protection Committee and the Planning Committee take an active part in any "debate and consultation". We would strongly refute any implied criticism of the Committee.</i></p>
<p><b>Appeals</b></p>
<p>8. Licensing authorities should publicise the reasons which have led them to settle an appeal, and should hesitate to compromise if they are effectively reversing an earlier decision which residents and others intervening may have thought they could rely on. (Paragraph 173)</p>

*In circumstances where a Consent Order is agreed to, this will be included in the monthly report to LPPC on the outcome of appeals.*

9. We recommend that appeals from licensing authorities should no longer go to magistrates' courts, but should lie to the planning inspectorate, following the same course as appeals from planning committees. This change is not dependent on the outcome of our recommendations on the licensing function, and should be made as soon as possible. (Paragraph 206)

*This was not included in the call for evidence, but a suggestion which resulted from some of the evidence presented to the Select Committee. There are marked differences between the two systems, most fundamentally involving the parties who are able to appeal against planning decisions. It is unclear how this would improve the situation for any party and it would appear the issues may be more appropriately addressed by more training for the Magistrates.*

### **Immediate Changes**

10. The section 182 Guidance should be amended to make clear the responsibility of the chair of a licensing committee for enforcing standards of conduct of members of sub-committees, including deciding where necessary whether individual councillors should be disqualified from sitting, either in particular cases or at all. (Paragraph 213)

*Agreed*

11. We recommend that the Home Office discuss with the Local Government Association, licensing solicitors and other stakeholders the length and form of the minimum training a councillor should receive before first being allowed to sit as a member of a sub-committee, and the length, form and frequency of refresher training. (Paragraph 218)

*Agreed*

12. The section 182 Guidance should be amended to introduce a requirement that a councillor who is a member of a licensing committee must not take part in any proceedings of the committee or a sub-committee until they have received training to the standard set out in the Guidance. (Paragraph 220)

*Agreed. There are already training requirements in place within Birmingham, but a National approach is to be welcomed.*

13. We recommend that where there are no longer any matters in dispute between the parties, a sub-committee which believes that a hearing should nevertheless be held should provide the parties with reasons in writing. (Paragraph 222)

*Agreed*

14. The Hearings Regulations must be amended to state that the quorum of a sub-committee is three. (Paragraph 229)

*Agreed, this clarification of the Regulations is welcomed. (Albeit, in Birmingham we already work on this understanding)*

15. Regulations 21 and 23 of the Hearings Regulations leave everything to the discretion of the committee. They regulate nothing. They should be revoked. (Paragraph 230)

*Agreed.*

16. The section 182 Guidance should indicate the degree of formality required, the structure of hearings, and the order in which the parties should normally speak. It should make clear that parties must be allowed sufficient time to make their representations. (Paragraph 231)
<i>Agreed. This would effect a single approach across all Local Authorities and reduce the likelihood of challenge to procedures.</i>
17. We recommend that where on a summary review a licence is revoked and the livelihood of the licensee is at stake, magistrates' courts should list appeals for hearing as soon as they are ready. (Paragraph 236)
<i>Agreed.</i>
18. We recommend that notice of an application should not need to be given by an advertisement in a local paper. Notices should be given predominantly by online notification systems run by the local authority. (Paragraph 242)
<i>Agreed.</i>
19. Local authorities should ensure that blue licensing notices, as for planning applications, should continue to be placed in shop windows and on street lights in prominent positions near the venue which is the subject of the application. (Paragraph 243)
<i>Agreed. This is no change to the current position.</i>
20. Coordination between the licensing and planning systems can and should begin immediately in all local authorities. The section 182 Guidance should be amended to make clear that a licensing committee, far from ignoring any relevant decision already taken by a planning committee, should take it into account and where appropriate follow it; and vice versa. (Paragraph 246)
<i>Agreed. The Guidance should be amended to clarify the position and negate previous mixed messages which were given.</i>
<b>The Licensing Objectives</b>
21. We have received submissions in both written and oral evidence that three further objectives should be added to the four already listed. Our consideration of them is based on our view that the objectives are not a list of matters which it would be desirable to achieve, but simply an exhaustive list of the grounds for refusing an application or imposing conditions. There is therefore no point in including as an objective something which cannot be related back to particular premises. (Paragraph 250)
23. We do not recommend that "enjoyment of licensable activities", "the provision of social or cultural activities", or anything similar, should be added as a licensing objective. (Paragraph 265)
24. We do not recommend adding as a licensing objective "compliance with the Equality Act 2010" or "securing accessibility for disabled persons". (Paragraph 272)
25. We recommend that the law should be amended to require, as in Scotland, that an application for a premises licence should be accompanied by a disabled access and facilities statement. (Paragraph 277)
<i>Agreed.</i>
<b>The Off-Trade</b>
26. We do not recommend that powers to ban super-strength alcohol across many premises simultaneously be granted to local authorities. (Paragraph 309)



27. The Coalition Government's Responsibility Deal on alcohol did not achieve its objectives, and appears to have been suspended. We believe much more still needs to be done to tackle the production of super-strength, low-cost alcoholic products. If and when any similar schemes are developed in the future, there must be greater provision for monitoring and maintaining them, and greater collaboration between all parties involved, including both public health experts and manufacturers. They should also account for the realities of super-strength alcohol, with particular focus on, for example, ABV rather than the specificities of packaging. (Paragraph 310)

*Agreed.*

28. We believe that proposed Group Review Intervention Powers, which would give local authorities the power to introduce mandatory blanket conditions on all premises in a particular area, should not be introduced. As a blanket approach to problems which can normally be traced back to particular premises, they are likely to suffer from the same problems as Early Morning Restriction Orders, and the same results can be achieved through existing means. (Paragraph 316)

29. While there appears to be some merit to a few voluntary schemes, the majority, and in particular the Government's Responsibility Deal, are not working as intended. We believe there are limits to what can be achieved in this way, and many of the worst operators will probably never comply with voluntary agreements. We strongly believe that the Alcohol etc. (Scotland) Act 2010 offers a proportionate and practical basis for measures specifically regulating the off-trade. (Paragraph 321)

30. We recommend that legislation based on Part 1 of the Alcohol etc. (Scotland) Act 2010 should be introduced in England and Wales at the first available opportunity. In the meantime, the section 182 Guidance should be amended to encourage the adoption of these measures by the off-trade. (Paragraph 322)

### **Temporary Event Notices**

31. Temporary Event Notices are used for a wide range of purposes, and the impact of a particular event on local residents cannot be reliably determined by whether they fall into broad 'community' and 'commercial' categories. We do not recommend the division of the current TENs system into 'community' and 'commercial'. (Paragraph 344)

32. We recommend that licensing authorities be given the power to object to Temporary Event Notices, alongside police and environmental health officers. A system for notifying local councillors and local residents of TENs in a timely fashion should also be implemented. (Paragraph 349)

*When implementing any notification system for residents /local councillors care should be taken not to raise expectations if they are not able to object to the TENs.*

33. We recommend that section 106(2) of the Licensing Act 2003 be amended, replacing the words "before a hearing" with "before or during a hearing", to enable TENs to be amended during a hearing if agreement is reached. (Paragraph 352)

*Agreed*

34. Where it appears that notices are being given for TENs simultaneously on adjacent plots of land, resulting in effect in the maximum number attending exceeding the 500 person limit, we would expect the police or environmental health officers to object, and the licensing authority to issue a counter-notice. We recommend that the section 182 Guidance be amended to make this clear. (Paragraph 354)

<i>Agreed</i>
35. Although it is difficult to know whether the inadequate recording of TENs is widespread among local councils, we recommend that the section 182 Guidance be strengthened and clarified with respect to the collection and retention of TENs. It should clarify what personal information should be retained and in which particular format. (Paragraph 357)
<i>Agreed</i>
36. This information must be retained in a system allowing for its quick and easy retrieval, both by local authorities and by the public, and in such a way that local and national statistical data can be produced from them. The national GOV.UK platform should be used for receiving and processing TENs. (Paragraph 358)
<i>Agreed - TENs are already searchable on our Public Register.</i>
37. We recommend that section 67 of the Deregulation Act 2015, relating to Community and Ancillary Sellers' Notices, should not be brought into force, and should be repealed in due course. (Paragraph 368)
<i>Agreed</i>
<b>Crime, Disorder and Public Safety</b>
38. We are convinced that licensing is a sufficiently specialist and technical area of policing, requiring a distinct and professional body of police licensing specialists. Although we are aware of the many demands currently placed on police resources, the proper and attentive licensing of premises has a considerable if sometimes indirect impact on public reassurance and wider aspects of crime and disorder. It is therefore important that the role of police licensing officers should not be diluted or amalgamated, as evidence suggests is occurring in some constabularies. They do not need to be sworn police officers, and in many cases it may indeed be preferable that this role be performed by civilian police staff. (Paragraph 379)
<i>Agreed (although there are benefits to having sworn police officers carrying out the Licensing functions.)</i>
39. We recommend the development and implementation of a comprehensive police licensing officer training programme, designed by the College of Policing. While we accept that such an undertaking will require additional funds, these costs will likely be more than offset if the quality of police licensing decisions is improved, thereby reducing the number of appeals and other corrective procedures. (Paragraph 388)
<i>Agreed - although there should also be training for the other Responsible Authorities so they are aware of their powers and opportunities available to them.</i>
40. We believe it is highly likely that licensing committees will take police evidence seriously, especially if it is presented in a consistent and compelling fashion, regardless of whether they are required to by the section 182 Guidance. The risk that presently exists is that this additional emphasis could lead some licensing committees to partially or fully abdicate their responsibility to scrutinise police evidence to the same high standards as they would any other evidence. Our evidence suggests this is indeed occurring in some areas. It is entirely wrong that police evidence should be given more weight than it deserves solely because of its provenance. (Paragraph 400)

<i>Agreed</i>
41. Given evidence that paragraph 9.12 of the section 182 Guidance is being misinterpreted by licensing committees, and the fact that similar sentiments, more clearly stated, are already expressed in paragraph 2.1 of the Guidance, we recommend that paragraph 9.12 be removed. (Paragraph 401)
42. We support the Government's current move to transfer Cumulative Impact Policies from the section 182 Guidance and to place them on a statutory footing, as this will introduce much needed transparency and consistency in this area. (Paragraph 409)
43. We agree with criticism of the drafting of the new section 5(5A) of the Act, as it threatens to remove discretion from local authorities on how they may interpret their own cumulative impact policies. (Paragraph 412)
<i>Agreed</i>
44. We were surprised to learn that the Home Office have not collected centralised figures on the use of relatively serious police powers until now, and that figures relating to section 169A closure notices are presented in such a confusing and misleading way. (Paragraph 416)
<i>Noted</i>
45. We recommend that the section 182 Guidance be amended to make clear that the service of a Closure Notice pursuant to section 19 of the Criminal Justice and Police Act 2001 does not:
require the premises to close or cease selling alcohol immediately; or
entitle the police to require it to do so; or
entitle the police to arrest a person on the sole ground of non-compliance with the notice. (Paragraph 421)
<i>Noted</i>
46. We sympathise with the police, practitioners and businesses who cannot always fully comprehend the complex process surrounding interim steps. We conclude that instead of conferring discretion upon the sub-committee to impose further interim steps upon a licensee pending appeal, a discretion to impose with immediate effect the determination that the sub-committee reached upon the full review would be preferable. This final decision must represent the sub-committee's more mature reflection upon the situation, based upon the most up to date evidence, and this ought to be the decision that binds the licensee, if immediacy is a requirement, rather than the superseded interim steps. (Paragraph 431)
<i>Agreed</i>
47. Within the Anti-Social Behaviour, Crime and Policing Act 2014, the power of the magistrates to "modify" the closure order is curious wording, which has already perplexed the magistrates' courts, given that the magistrates are just as likely to be invited to exercise their power to lift the revocation and re-open premises at a time when the original closure order has expired as they are during the currency of that closure order. We recommend a clarification of this wording. (Paragraph 436)
<i>Agreed</i>

## **The Night-Time Economy**

48. We believe that the appointment of the Night Czar and other champions of the night time economy (NTE) has the potential to help develop London's NTE and ease the inevitable tensions that arise between licensees, local authorities and local residents. We believe that greater transparency should be expected of these roles if they are to secure the co-operation and trust of key parties in London's NTE. In time Night Mayors may also offer a model to other cities in the UK. (Paragraph 450)

*This would be a positive role to introduce to the City - although it remains to be seen who would pay for this role.*

49. We believe it is appropriate that no Early Morning Restriction Orders have been introduced and we recommend that, in due course, the provisions on EMROs should be repealed. (Paragraph 466)

*Agreed*

50. While we acknowledge the concerns of local residents, we believe that overall the Night Tube is likely to have a positive impact for London's late night licensed premises, their staff, and local residents. Not only will it provide a welcome boost to London's night-time economy, which must be allowed to grow if London is to continue to prosper as a global city in the 21st century, but it may well also bring advantages for residents by dispersing crowds more effectively and efficiently. (Paragraph 472)

*Only relates to LONDON*

51. The Late Night Levy was introduced in large part to require businesses which prosper from the night time economy to contribute towards the cost of policing it. Yet the evidence we have heard suggests that in practice it can be very difficult to correlate the two with any degree of precision, which contributes to the impression, held by many businesses, that the levy is serving as a form of additional general taxation, and is not being put towards its intended purpose. (Paragraph 487)

*agreed*

52. We have received from ministers, verbally and in writing, categorical assurances that the provisions of the Policing and Crime Act 2017 regarding Late Night Levies will not be implemented until the Government has considered and responded to the recommendations in this report. (Paragraph 501)

*Noted*

53. Given the weight of evidence criticising the Late Night Levy in its current form, we believe on balance that it has failed to achieve its objectives, and should be abolished. However we recognise that the Government's amendments may stand some chance of successfully reforming the Levy. We recommend that legislation should be enacted to provide that sections 125 to 139 of the Police and Social Responsibility Act 2011 and related legislation should cease to have effect after two years unless the Government, after consulting local authorities, the police and others as appropriate, makes an order subject to affirmative resolution providing that the legislation should continue to have effect. (Paragraph 502)

*noted*

54. If the Government, contrary to our recommendation to abolish the Late Night Levy, decides to retain it, we further recommend that Regulations be made under section 131(5) of the Police Reform and Social Responsibility Act 2011 amending section 131(4) of the Act, abolishing the current 70/30 split, and requiring that Late Night Levy funds be divided equally between the police and local authorities. (Paragraph 503)

55. The EU Services Directive is an additional consideration which could have implications for the legality of the Late Night Levy. If the Government, contrary to our recommendation, decides to retain the Late Night Levy, the Home Office should satisfy itself that any further action relating to the Late Night Levy complies with the EU Services Directive. (Paragraph 505)

*noted*

56. We welcome all the initiatives of which we heard evidence, including BIDs, Best Bar None, Purple Flag and others, and recognise the effort which goes into them and the potential they have to control impacts and improve conditions in the night time economy. We commend the flexibility which such schemes appear to offer, and the bespoke way in which they are developed to match the needs of their locality. (Paragraph 518)

*Noted. Although these initiatives carry significant cost implications which cannot be met through the Licensing Service ring-fenced budgets.*

57. We welcome the initiative of local authorities such as Cheltenham which have abandoned Late Night Levies in favour of Business Improvement Districts. While recognising that local authorities cannot impose Business Improvement Districts in the same way that they can Late Night Levies, we recommend that other local authorities give serious consideration to initiating and supporting Business Improvement Districts and other alternative initiatives. (Paragraph 520)

*Noted. There are already 11 BIDs in the Birmingham City Council area.*

### **Live Music**

58. We believe that the Live Music Act 2012 is working broadly as intended, but that there is not presently a case for further deregulation, let alone the complete removal of all live music-related regulation from the Licensing Act 2003. (Paragraph 541)

*Agreed*

59. We recommend that more be done to spread awareness of the provisions of the Live Music Act 2012 and its implications for licensed premises among local councils, licensed premises and local residents. (Paragraph 542)

*Agreed. There is some confusion around the many and varied exemptions which would benefit from clarification.*

60. We recommend that a full 'Agent of Change' principle be adopted in both planning and licensing guidance to help protect both licensed premises and local residents from consequences arising from any new built development in their nearby vicinity. (Paragraph 553)

*Noted*

### **Fees and Fee Multipliers**

61. We recommend that section 121 of the Police Reform and Social Responsibility Act 2011 be brought into force, and new Fees Regulations made requiring licensing authorities to set licensing fees. (Paragraph 565)

*Agreed. This is an area of significant concern for the Licensing and Public Protection Committee.*

62. The Opinion of the Advocate-General in the case of Hemming has cast doubt on the legality of any element of a licensing fee which goes beyond the cost to a licensing authority of processing an application. Accordingly we consider that it would not be sensible to recommend the extension of the fee multiplier to supermarkets at this time. (Paragraph 581)

*Agreed. Any proposal to set fees locally would be entirely on a cost-recovery basis.*

63. We recommend that the Home Office should consider whether the Fees Regulations should be amended to make them compatible with the EU Services Directive and the Provision of Services Regulations 2009. (Paragraph 582)

*Noted*

64. If, as we recommend, the power to set licence fees is devolved to licensing authorities, then this power will inevitably have to be constrained by any conclusion which the Home Office draws on the compatibility of fees generally with the Directive and Regulations. (Paragraph 583)

*Noted*

### **Other Matters of Importance**

65. We recommend further development of the GOV.UK platform for licensing applications, to ensure that it is working with local authority computer systems, and fully compatible with the provisions of the Licensing Act 2003. In due course, its uniform adoption by all local authorities in England and Wales should be encouraged by the Government and the section 182 Guidance updated accordingly. (Paragraph 590)

*noted*

66. We believe the enforcement of section 128 and 132A of the Licensing Act 2003 would be facilitated by a national database of personal licence holders, against which to check those who are convicted of relevant offences. We recommend the creation of a national database of personal licence holders for use by courts and licensing authorities, linked to the Police National Database. (Paragraph 594)

*Agreed. The purpose of having a personal licence is undermined by the lack of any cross border information sharing. A national database would help to resolve this.*

67. We do not recommend that licensing committees be given the power to suspend or revoke a premises licence for non-payment of business rates. (Paragraph 599)

*Noted.*

68. The evidence we received on the application of the Act specifically to clubs suggests that they have adapted to it well. (Paragraph 609)

*noted*

69. Given the decline in most forms of members' clubs, and the social value they hold in many communities, we believe that even minor adjustments which may help them should be made. We therefore recommend the removal of Conditions 1 and 2 by the repeal of section 62 (2) and (3) of the Licensing Act 2003, abolishing the two-day waiting period required of new members. We acknowledge that at least some clubs will want to keep this waiting period in their club rules, and they will still be entitled to do so. (Paragraph 610)

*noted*

70. The designations of airports as international airports for the purposes of section 173 of the Licensing Act 2003 should be revoked, so that the Act applies fully airside at airports, as it does in other parts of airports. (Paragraph 620)

*Noted*

71. The 1964 and 2003 Acts both refer to ports and hoverports as well as to airports, so that the same arrangements can be made portside. Our discussion has centred on airports. Any similar designations made for ports and hoverports should also be revoked. (Paragraph 621)

*Noted*

72. The sale of alcohol on a railway journey does not need to be licensed. We accept that the Act cannot sensibly apply to a moving train, and the railway companies have their own applicable bylaws. They also have the power where necessary to ban the sale and consumption of alcohol altogether, for example on train journeys to football matches. These powers seem to us adequate. (Paragraph 622)

*Noted*

73. We are concerned that section 141 of the Licensing Act is not being properly enforced, and the few concerted attempts by local authorities to date have been lacklustre at best. Notwithstanding the difficulties of defining drunkenness, we believe that enforcement of section 141 needs to be taken far more seriously, and by doing so many of the problems currently associated with the Night Time Economy, in particular pre-loading and the excessive drunkenness and anti-social behaviour often linked with it, would be reduced. (Paragraph 629)

*Noted. Officers will offer support to West Midlands Police with regard to this matter - although, again, it is an area where better training would help to improve the situation.*

**Select Committee on the Licensing Act 2003**  
**Response to the Call for Evidence from Birmingham City Council**  
**Licensing and Environmental Health**

1. Are the existing four licensing objectives the right ones for licensing authorities to promote? Should the protection of health and wellbeing be an additional objective?

- A. We agree that the four licensing objectives are the right ones to promote, but we would like to see the protection of health and wellbeing as a fifth objective.

Health and wellbeing is already a licensing objective in Scotland. If it were a licensing objective in England it would enable us to take account of the impact that the sale of alcohol has on the NHS accident and emergency services where hospital admissions can be related to particular premises or even groups of premises. There are practical difficulties with trying to relate hospital admissions to particular premises because being able to link an admission to a specific premise depends on very accurate data being kept by hospitals. The priority for accident and emergency departments is to deal with patients, not keep statistical information. It is also recognised that the fact that a patient may have been taken to hospital from or near a particular premises does not mean that those premises were responsible for selling the bulk of the alcohol that led the person to require help, whether through illness or because of fights that occur as a result of drunkenness.

Nevertheless, we think that licensing authorities should be able to take account of accident and emergency data and indeed general statistical data about the prevalence of drinking in an area and general alcohol related admissions caused by illnesses such as liver disease or heart disease. This data should be able to be used when we formulate our Statement of Licensing Policy in ways that are similar to those now permitted under the Gambling Act to map areas of gambling related harm. It would be particularly beneficial in terms of evidence to support special policy areas (or Cumulative Impact Areas). This might be relevant to Night Time Economy areas or areas where there is a proliferation of off-licences where street drinking is a problem, for instance.

2. Should the policies of licensing authorities do more to facilitate the enjoyment by the public of all licensable activities? Should access to and enjoyment of licensable activities by the public, including community activities, be an additional licensing objective? Should there be any other additional objectives?

- A. As a licensing authority we would not wish to create artificial barriers to the public's enjoyment of licensed events, particularly small scale community events. Guidance to local authorities in respect of community events has already been relaxed. If the enjoyment of licensable activities became a licensing objective it would potentially come into conflict with the four existing objectives which would inevitably have to take precedence. We could not risk



such an objective undermining the existing objectives. It is difficult to imagine how a licensing authority could promote the proposed objective in the light of our overriding responsibility under the Licensing Act which is to protect the safety of the public.

***The balance between rights and responsibilities***

3. Has the Live Music Act 2012 done enough to relax the provisions of the Licensing Act 2003 where they imposed unnecessarily strict requirements? Are the introductions of late night levies and Early Morning Restriction Orders effective, and if not, what alternatives are there? Does the Licensing Act now achieve the right balance between the rights of those who wish to sell alcohol and provide entertainment and the rights of those who wish to object?
- A. There are serious concerns that the LMA12 has gone beyond what was intended and tipped the balance more to those who wish to sell alcohol, e.g.:
  - a. A premises which sells alcohol can still have live and recorded music, but due to the relaxations need not flag this upon the application, and therefore will operate without any controls.
  - b. Conditions which are relevant to safeguarding public nuisance e.g. keeping windows and doors closed, installation of limiters, etc., can, up to 23.00 hrs, be ignored, because the provision of live and recorded music before 23:00hrs is deregulated.
  - c. The above two points are examples which causes more effort for the Responsible Authority, this effort being reactive where complaints are received and hence more involved than proactive action to avoid these problems. This can also create unnecessary disruption for local residents.

We would not support further relaxation of the Licensing act to accommodate live music.

In Birmingham we have not made use of the Late Night Levy after taking the following into account:

The responsibility for collecting the Levy would be the local authority's. After deducting the cost of collection we must give 70% to the police and we retain 30%.

The intention of the levy is to pay for additional policing of the night time economy, however there is no obligation upon police forces to spend the levy on the night time economy or within the area for which it was collected. Levy collected in Birmingham could, for instance, be spent anywhere in the West Midlands. The police could in fact spend it on anything of their choosing. The 30% allocated to the local authority would have to be spent on tackling alcohol related crime and disorder and services connected to the management of the night time economy (e.g. taxi marshal schemes).

The power to introduce a Levy rests with the Licensing Committee.

### **Reasons why we have not considered implementing the Levy**

Birmingham's Licensing and Public Protection Committee considered the Levy in a report in September 2012 immediately prior to the legislation being enacted. The Committee did not express an appetite for introducing the Levy. Some of the reasons against a Levy in Birmingham are:

- The economic impact that an additional levy would have on businesses that are trading in already difficult circumstances.
- The likelihood that businesses would reduce their trading hours to avoid the levy, resulting in a city centre that would 'shut' after midnight. To avoid the levy they would have to vary their licences. The legislation permits them to make a free variation. The variations would have to be made by the Licensing service without any income for the work.
- The economic impact on businesses that support the night time economy e.g. drinks suppliers, taxi and private hire firms, late night food businesses.
- The possibility that licensed premises would move from Birmingham into neighbouring authorities where the levy might not be applied.
- Premises in Business Improvement Districts (BIDs) would be eligible for an exemption from the levy (at the discretion of the local authority). Licensed premises within BIDs already have to pay a BID levy and would be against having to pay another levy on top.
- Given that BIDs would probably be exempted and all the main night time economy areas in Birmingham are part of a BID, the vast majority of premises that actually create the need for policing at night would not be paying the levy.
- The local authority has to designate the entire city as a Levy area. It can not choose particular areas within its boundary. Therefore the premises that would be affected by the Levy would in the main be suburban pubs that don't make a call on police resources. They would be paying to police the city centre whose premises would be exempt.
- It is possible that the cost of collecting the Levy would be greater than the revenue it would deliver given the number of exempt premises under the legislation.
- Licensing, the Police and other Responsible Authorities (Environmental Health, Trading Standards, Planning, Fire Service etc.) work well together to address premises that cause trouble. There are already sufficient tools at our disposal to deal with any issues that arise using existing powers.
- There is a reputational aspect to this. Given that few have so far gone ahead with the Levy, if we were to apply it here we would be saying that the night time economy in Birmingham was out of control, which is not the case.
- Officers from Licensing consulted with Police Licensing Officers and the Force Solicitor prior to the implementation of the legislation in 2011. West Midlands Police was not seeking the introduction of the Levy and that remains their position.

We believe that EMROs are a draconian measure and would blight a locality, identifying it as a place where crime and disorder were out of control. There

are sufficient tools in the Licensing Act to deal with problem premises without resorting to having to apply early closing times to a group of premises.

In terms of the balance between the rights of those who wish to sell alcohol and provide entertainment and the rights of those who wish to object, the balance still seems to be in favour of those wishing to sell alcohol. The Licensing Act still works on a presumption that a licence will be granted and it is for the objector to demonstrate reasons why the licence should not be granted. Frequently objectors' grounds for objection do not fall under one of the 4 licensing objectives, and yet are not unreasonable. This often arises where city centre living comes up against the night time economy.

Local authorities are encouraged to use space in city centres for residential accommodation, especially apartments. Residents may object to the granting of new licences for bars, clubs and restaurants nearby, because of the impact the premises will have on their quality of life, or the impact that large numbers of customers will have on local parking and the consequential increase in numbers of taxis that will be attracted to the area. They face the difficult task of trying to prove what might happen in the future without being able to provide factual evidence to support their objection. It is often impossible to provide factual evidence because licensed premises have not been in existence up to that point.

Licensing committees should have the ability to consider a broader range of factors than purely those related to the licensing objectives and they should be allowed to give greater credence to residents' and objectors' concerns about what will happen in the future. Currently such concerns might be dealt with through conditions being attached to a licence, whereas what objectors really want is for the licence not to be granted.

4. Do all the responsible authorities (such as Planning, and Health & Safety), who all have other regulatory powers, engage effectively in the licensing regime, and if not, what could be done? Do other stakeholders, including local communities, engage effectively in the licensing regime, and if not, what could be done?
- A. We are not convinced that all responsible authorities necessarily maximise their role within the licensing regime. Inevitably this will vary between different local authorities, but it can be due to competing priorities and how responsible authorities perceive their principal duties. Licensing services can improve integration between responsible authorities through offering training to ensure that they understand how the legislation works and what powers are available to them.

We find that local communities do not engage with the licensing regime unless and until there is a specific issue concerning a premises in their area that directly affects them. We have experienced very low response rates when consulting with the public on matters such as special policy areas which do not relate to particular premises.

Part of the problem is connected to the way that premises are required to advertise applications for the grant or variation of a licence through the blue notice and newspaper advertisement scheme. Notices are often overlooked by the general public and Licensing is expected to maintain neutrality by not encouraging objections. In planning legislation people living close to a site where planning permission has been requested are written to and told of the application and their right to object. This is not reflected in licensing legislation. One possibility would be to replicate something similar whereby either the licensing authority wrote to people in the vicinity to advise them of the application or if there was a requirement on the applicant to notify people living nearby. There would be issues to resolve around identifying the physical distance within which people should be notified, but presumably these are matters that have already been addressed in planning law.

### ***Licensing and local strategy***

5. Licensing is only one part of the strategy that local government has to shape its communities. The Government states that the Act “is being used effectively in conjunction with other interventions as part of a coherent national and local strategy.” Do you agree?
  - A. It is our view that licensing and planning policy should be properly harmonised to avoid discrepancies between planning consents and premises licences. It would be advantageous if it were a requirement of the licensing process to demonstrate that planning consent is in place for the activity and times being applied for. But over and above this there is scope for closer integration of the licensing and the planning regimes. The two are entirely separate and there is no overarching framework that integrates the authority’s licensing and planning policies. The ‘coherent national and local strategy’ does not exist.
6. Should licensing policy and planning policy be integrated more closely to shape local areas and address the proliferation of licensed premises? How could it be done?
  - A. Local areas could be shaped more effectively if local authorities were empowered to set limits on the number of licensed premises in a given geographical area. This is not currently permitted apart from Special Policy areas, but even these cannot set a limit on new premises. They merely have the effect of requiring the applicant to demonstrate that the premises will not have an adverse impact on the licensing objectives. Unless the local authority can specifically place a limit on number of premises it will never be able to shape localities. An example might be the proliferation of off-licences or fast food takeaways (with late night refreshment licences) in suburban high streets. The local authority has very limited ability to shape the look and feel of the high street, but a cap on numbers of licensed premises would help to give the local authority that ability.

### ***Crime, disorder and public safety***

7. Are the subsequent amendments made by policing legislation achieving their objects? Do they give the police the powers they need to prevent crime and disorder and promote the licensing objectives generally? Are police adequately trained to use their powers effectively and appropriately?
- A. The police powers appear to be adequate to close premises when necessary and we have held hearings where these powers have been used effectively. Generally speaking the police have sufficient powers to promote the licensing objectives, but our experience is that the knowledge of how to use these powers is focussed in the hands of a very small number of specialist police licensing officers. It would be preferable if there was a greater awareness amongst the general neighbourhood police teams of their powers.
8. Should sales of alcohol airside at international airports continue to be exempt from the application of the Act? Should sales on other forms of transport continue to be exempt?
- A. We do not have an airport or port within our local authority's geographical boundary and cannot comment on this question.

### ***Licensing procedure***

9. The Act was intended to simplify licensing procedure; instead it has become increasingly complex. What could be done to simplify the procedure?
- A. It would be advantageous if all applications for premises licences and TENs were served on the Licensing Authority and not to the individual Responsible Authorities, in a manner similar to the Planning Portal. The Licensing Authority would then distribute the applications to relevant RA's, thereby ensuring all documents are correctly served and saving some effort for the applicant, although the additional cost should be borne by the applicant. This cost may be reduced if all applications had to be served electronically, including TENs.
10. What could be done to improve the appeal procedure, including listing and costs? Should appeal decisions be reported to promote consistency? Is there a case for a further appeal to the Crown Court? Is there a role for formal mediation in the appeal process?
- A. At a practical level, we find that applicants whose applications are refused or who object to conditions that have been applied to their licence will attempt to negotiate with licensing officers to try to arrive at a different decision after a licensing committee or sub committee has heard a case. An officer cannot enter into such negotiations unless he or she has been delegated with the authority to make an alternative arrangement. It is very unlikely that an officer would be given such delegated authority because it would completely undermine the authority of the sub committee.

In practice, we have had occasions when, following legal advice, we have been advised that a prospective appeal would be successful and have agreed to a consent order to resolve a case before it reaches court. Therefore there is a method by which cases can be mediated, but it is not prescribed or documented anywhere.

Issues arise where the Licensing Authority becomes the respondent to an appeal as a result of a decision to refuse a licence application (for instance) based on the evidence of a particular responsible authority (e.g. the police), but it is the Licensing Authority that bears the risk of the appeal once at court, including costs. There should be a way by which the costs can be shared between the Licensing Authority and the responsible authority where a decision has been made based on the responsible authority's evidence.

We do not consider that an appeal route to the Crown Court is necessary.

### ***Sale of alcohol for consumption at home (the off-trade)***

11. Given the increase in off-trade sales, including online sales, is there a case for reform of the licensing regime applying to the off-trade? How effectively does the regime control supermarkets and large retailers, under-age sales, and delivery services? Should the law be amended to allow licensing authorities more specific control over off-trade sales of "super-strength" alcohol?
  - A. The off-trade is where the growth appears to be in terms of new licences, but generally we find that supermarkets and larger retailers are well managed and cause least problems. Most problems associated to off-sales are connected to small corner shop type outlets, whether through sales of alcohol and cigarettes to minors or through the sale of alcohol to street drinkers. Super strength alcohol sales are problematic. We would welcome a simpler process by which we can prevent the sale of super strength alcohol, particularly individual cans or bottles, without having to go through a full review process, which is currently the case.

We do not find there to be a problem with delivery services.

### ***Pricing***

12. Should alcohol pricing and taxation be used as a form of control, and if so, how? Should the Government introduce minimum unit pricing in England? Does the evidence that MUP would be effective need to be "conclusive" before MUP could be introduced, or can the effect of MUP be gauged only after its introduction?
  - A. This question is largely one relating to aspects of public health and a separate response is being submitted to the consultation by Birmingham's Public Health service that will address this question. It is already illegal to sell alcohol below the permitted price, but it is not apparent that this has had any effect on sales of alcohol or alcohol related harm.

### ***Fees and costs associated with the Licensing Act 2003***

13. Do licence fees need to be set at national level? Should London and the other major cities to which the Government proposes to devolve greater powers, have the power to set their own licence fees?

A. We are very firmly of the view that licence fees should be determined locally. The Licensing Act 2003 sets a fee structure for local authorities, which specifies the circumstances in which a fee may be charged. The Licensing Act 2003 (Fees) Regulations 2005 prescribe the amount that an authority may charge. The fees have never reflected the true cost of administering licences. The Government has not allowed any fee increase since 2005; therefore income has not kept pace with the rising cost of administering licences, contributing to financial pressures. In 2011 the Police Reform and Social Responsibility Act gave the Home Secretary a power to allow local authorities to set local licensing fees. In 2014 the Home Office consulted on proposals to allow local fee setting. No changes were made as a result of this consultation and the fees remain at the 2005 level.

A worked example of the estimated actual cost of the Licensing Act 2003 Fees is shown below. Whilst it must be remembered that these figures do not include any proposal regarding annual fees, which would potentially mitigate against some of these fees, the figures provided show the stark contrast between the Statutory Fees and the cost to the service. For example – a Temporary Event Notice is currently £21. When the amount of officer time and other factors are considered, the true cost is estimated at £400. This is almost 20 times more than the statutory fee.

The consequence of not being able to charge the true cost of the licence fee is that Birmingham City Council is asked to subsidise the cost of the licensing service, which should be self-financing and paid for by licence holders.

# **LICENSING ACT 2003 - PRESCRIBED FEES & Suggested Costs**

**Birmingham  
City Council**

<b>Application Fee</b>			
<b>Rateable Value</b>	<b>Premises Value</b>	<b>Current</b>	<b>Suggested cost</b>
<b>A</b>	No rateable value up to £4,300	<b>£100</b>	<b>£1687</b>
<b>B</b>	£4,301 to £33,000	<b>£190</b>	
<b>C</b>	£33,001 to £87,000	<b>£315</b>	
<b>D</b>	£87,001 to £125,000	<b>£450</b>	
<b>E</b>	£125,001 and above	<b>£635</b>	
<b>D primarily alcohol</b>	2 x multiplier	<b>£900</b>	
<b>E primarily alcohol</b>	3 x multiplier	<b>£1,905</b>	
<b>Annual Charge</b>			
<b>Rateable Value</b>	<b>Premises Value</b>	<b>Current</b>	<b>Suggested cost</b>
<b>A</b>	No rateable value up to £4,300	<b>£70</b>	<b>Not available</b>
<b>B</b>	£4,301 to £33,000	<b>£180</b>	
<b>C</b>	£33,001 to £87,000	<b>£295</b>	
<b>D</b>	£87,001 to £125,000	<b>£320</b>	
<b>E</b>	£125,001 and above	<b>£350</b>	
<b>D primarily alcohol</b>	2 x multiplier	<b>£640</b>	
<b>E primarily alcohol</b>	3 x multiplier	<b>£1,050</b>	
<b>Other Fees</b>			<b>Suggested cost</b>
Personal Licence (grant)		<b>£37</b>	<b>£332</b>
Temporary Event Notice (TEN)		<b>£21</b>	<b>£400</b>
Theft/loss of premises licence/club certificate, summary, personal licence or TEN		<b>£10.50</b>	<b>£68</b>
Provisional Statement		<b>£315</b>	<b>Not available</b>
Change of name, address, club rules		<b>£10.50</b>	<b>£68</b>
Personal Licence Change of details.		<b>£10.50</b>	<b>£68</b>
Variation of DPS		<b>£23</b>	<b>£448</b>
Transfer of premises licence		<b>£23</b>	<b>£396</b>
Interim Authority Notice		<b>£23</b>	<b>Not available</b>
Right of Freeholder notification		<b>£21</b>	<b>£72</b>
Minor Variation		<b>£89</b>	<b>£213</b>
Variation to include alternative condition (no DPS)		<b>£23</b>	<b>£448</b>

## **International comparisons**

14. Is there a correlation between the strictness of the regulatory regime in other countries and the level of alcohol abuse? Are there aspects of the licensing laws of other countries, and other UK jurisdictions, that might usefully be considered for England and Wales?

**A.** We are unable to comment on this question.



**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**12 JULY 2017**  
**ALL WARDS**

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS  
TAKEN DURING MAY 2017**

1. Summary

- 1.1 This report advises the Committee of the outcomes of appeals against the Sub Committee's decisions which are made to the Magistrates' Court, and any subsequent appeals made to the Crown Court, and finalised in the period mentioned above.

2. Recommendation

- 2.1 That the report be noted.

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3. Summary of Appeal Hearings for May 2017

	Magistrates'	Crown
Total	8	2
Allowed		2 (1 of which allowed to BCC)
Dismissed	4	
Appeal lodged at Crown		n/a
Upheld in part	1	
Withdrawn pre-Court	3	

4. Implications for Resources

- 4.1 The details of costs requested and ordered in each case are set out in the appendix below.
- 4.2 In May 2017 costs have been requested to the sum of £6,079.60 so far with reimbursement of £6,079.60 so far (100%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2017 to May 2017, costs associated to appeal hearings have been requested to the sum of £10,154.60 so far with reimbursement of £7,179.60 so far (70.7%) ordered by the Courts.
- 4.4 In May 2017 costs of £1,350 have been requested against Birmingham City Council with reimbursement of £250 ordered by the Courts.

5. Implications for Policy Priorities

- 5.1 The contents of this report contribute to the priority action of providing an efficient and effective Licensing service to ensure the comfort and safety of those using licensed premises and vehicles.

6. Public Sector Equality Duty

- 6.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Regulation and Enforcement Division, which ensures that equality issues have been addressed.

7. Consultation

- 7.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and the business community in terms of the regulatory duties of the Council. Any enforcement action taken as a result of the contents of this report is subject to that Enforcement Policy.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Prosecution files and computer records in Legal Proceedings team.

**APPENDIX****MAGISTRATES' COURT – PRIVATE HIRE DRIVER'S LICENCE**

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Bahar Gul	12.05.2017	Dismissed	£250	£250	On 1 March 2017, as the result of concerns expressed regarding matters disclosed not only as the result of a Police check but also by the appellant at the hearing, Committee considered and resolved to refuse to grant a licence. In the opinion of the Magistrates "the Committee decision was not wrong".
2	Abdul Shahren	19.05.2017	Dismissed	£300	£300	On 1 February 2017, as the result of conviction for offences of plying for hire and using a vehicle while uninsured, Committee considered and in line with the relevant policy resolved to revoke the licence. The appellant did not attend Court and there was no information from him as to why he was not in attendance.
3	Shamrez Khan	22.05.2017	Dismissed	£300	£300	On 13 February 2017, as the result of a complaint received that the appellant had defecated on the public highway and had failed to clean up after himself, Committee considered and resolved to suspend the licence for a period of three months. He was ordered to pay the costs within 14 days.
4	Sabir Hussain (Mr Hussain is also a hackney carriage driver)	22.05.2017	Withdrawn at Court	£150	£150	On 13 February 2017, as the result of disqualification from driving for a period of six months in August 2016, Committee considered and in departure from the relevant policy resolved to suspend and/or refuse the renewal of both licences for a period of three months. He was ordered to pay the costs within 14 days.

### MAGISTRATES' COURT – PRIVATE HIRE OPERATOR'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Mohammed Mushtaq t/a Atlas Intercity Sky Cars	12.05.2017	Dismissed	£2872.10	£2872.10	On 5 October 2016, as the result of concerns expressed that the appellant was not in day-to-day control of the operation, in that records were not being maintained in the prescribed manner and in some cases missing, and that customers' complaints were not being adequately recorded or properly investigated or were passed to the company's Sandwell base, Committee considered and resolved to revoke the licence. After numerous adjourned hearings at Court a licence was issued to a third party and the appellant was deemed to have abandoned his appeal; however, judgement was handed down on 12 May 2017.

### MAGISTRATES' COURT – HACKNEY CARRIAGE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Zafar Iqbal	12.05.2017	Allowed in part	£750 contra BCC	£250 contra BCC	On 1 February 2017, as the result of a complaint that the appellant had not only refused to convey persons, one of whom is registered blind and whose leg was in plaster, on a journey on grounds that "it was a short journey", but also that he had assaulted a third party who had attempted to assist, Committee considered and resolved to suspend the licence for a period of six months. The appeal was allowed in part, in that the period of suspension was reduced to three months. The Court took the view that the period of suspension imposed should be reduced, given the fact that the appellant was being deprived of earning a living

# **MAGISTRATES' COURT – LICENSING ACT 2003**

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Najibullah Asakzai iro International Supermarket, 117 Villa Road, Handsworth	n/a (hearing listed 22.05.2017)	Withdrawn 22.05.2017	£1207.50	£1207.50	On 24 January 2017, as the result of concerns expressed by the Chief Inspector of Weights & Measures that serious concerns existed which undermined and contravened the prevention of crime and disorder, the protection of children from harm, public safety, and the prevention of public nuisance objectives in the Act, Committee considered and resolved that the premises licence be revoked. The appeal was withdrawn at Court but the District Judge ordered that full costs as claimed be paid, within 28 days.
2	Emperors Lounge, 26 Birchall Street, Highgate	n/a (hearing listed 06.07.2017)	Withdrawn 10.04.2017	0	0	As the result of the Licensing Authority receiving notification that the Magistrates' Court had issued a closure order on grounds that a person had engaged in anti-social behaviour on the premises and the use of the premises was associated with significant and persistent disorder or persistent serious nuisance to members of the public, on 23 January 2017 Committee considered and resolved to revoke the premises licence. No order for costs was made because the appeal was abandoned at an early stage.

**MAGISTRATES' COURT – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**  
**SEXUAL ENTERTAINMENT VENUE**

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Scarlets, 34 Horsefair, Birmingham B1 1DA	09.05.17	Allowed. Consent order agreed	Nil	Nil	On 14 December 2016 the Licensing and Public Protection Committee refused to renew the SEV licence for Scarlets, the main reason being that the premises had not paid its business rates since having been granted its SEV licence in 2011. At court, the licence holder accepted liability for the business rates at the premises from 1 November 2015. This acceptance of responsibility for back taxes was significant because before the court hearing responsibility for business rates rested with two limited companies, both of which had been liquidated. Under the consent order the licence holder agreed to pay all outstanding liabilities that had arisen since 1 November 2015, which amount to £24,561.01 up to 31 March 2017. £7,166 was ordered to be paid to Birmingham City Council on the day of the court hearing and four equal sums thereafter on a monthly basis, the remaining sum outstanding to Birmingham City Council of £17,395 (the total amount to be paid by no later than 9 September 2017). By this agreement the premises is permitted to renew its SEV licence.

## CROWN COURT – PRIVATE HIRE DRIVER’S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Bahadur Singh	05.05.2017	Allowed	£600 contra BCC	Zero	On 13 December 2016, as the result of numerous previous motoring convictions, including two disqualifications from driving, and the previous revocation of such a licence in June 2012, Committee considered and resolved to refuse the grant of a licence. The appeal was dismissed by the Magistrates on 24 February 2017. The Bench found that “the Committee decision and consequently the Magistrates’ decision was wrong” and “insufficient weight had been placed on the fact that the appellant had been licensed by another authority since 2014”.
2	Mohammed Zabir Khan	25.05.2017	Allowed. <b>This appeal was brought by BCC</b>	£1000	£1000	On 3 November 2016, as the result of information received from West Midlands Police to the effect that the appellant had been involved in an incident involving offensive weapons, in consultation with the Chair of your Committee the licence was revoked with immediate effect on grounds of public safety. The appeal to the Magistrates was allowed on 13 March 2017 on a technicality and not through any merit of the case because, in the words of the Clerk to the Justices, “the notice was defective” and “did not set out the reasons” and in the opinion of the Magistrates “the notice does not comply with S61(2A) or (2B).” An appeal to the Crown Court was immediately lodged.



**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**12 JULY 2017**  
**ALL WARDS**

**FIXED PENALTY NOTICES ISSUED MAY AND JUNE 2017**

1. Summary
  - 1.1 The report sets out a breakdown, on a Constituency/Ward basis, of fixed penalty notices issued in the City during the period of May and June 2017.
2. Recommendation
  - 2.1 That the report be noted.

Contact Officer: Mark Croxford, Head of Environmental Health  
Telephone: 0121 303 6350  
E-mail: [mark.croxford@birmingham.gov.uk](mailto:mark.croxford@birmingham.gov.uk)

### 3. Background

- 3.1 The issuing of fixed penalty notices [FPN] by officers from Regulation and Enforcement is one of the means by which the problems of environmental degradation such as littering and dog fouling are being tackled within the City.
- 3.2 The yearly total numbers of fixed penalty notices issued are indicated below.

<u>Month</u>	<u>Fixed Penalty Notices Issued</u>
April 2004 – March 2005	382
April 2005 – March 2006	209
April 2006 – March 2007	650
April 2007 – March 2008	682
April 2008 – March 2009	1,147
April 2009 – March 2010	1,043
April 2010 – March 2011	827
April 2011 – March 2012	2,053
April 2012 – March 2013	1,763
April 2013 – March 2014	1,984
April 2014 – March 2015	4,985
April 2015 – March 2016	5,855
April 2016 – March 2017	6,306

### 4. Enforcement Considerations and Rationale

- 4.1 The attached appendix shows the wards where FPNs were issued during the month of May and June 2017.
- 4.2 By identifying both the area where the FPN is issued and the ward/area that the litterer lives this demonstrates that the anti-litter message is being spread right across the city. By and large litter patrols are targeted to the primary and secondary retail areas of the city because there is a high level of footfall and they engage with a full cross section of the population. Targeted areas include locations where there are excessive levels of littering, smoking areas with high levels of cigarette waste that cause blight in the city and areas where there are known problems associated with groups gathering to eat outdoors.
- 4.3 The number of incidences of Fixed Penalty Notices being issued reflects the fact that there is still a problem with littering on our streets. Since the Health Act came into force there has been a decline in street cleanliness associated with cigarette waste. This is reflected not only in these statistics but also in the environmental quality surveys undertaken by Fleet and Waste Management that record cigarette waste being the most prevalent waste upon our streets and identify it in 98% of all samples of street cleanliness.

4.4 One of the difficulties in resolving the problem of cigarette waste being deposited on the street is that the perception of many smokers is that cigarette waste is not litter. A change in the culture and perceptions of these smokers is critical to resolving this problem.

4.5 Anyone who receives a FPN is encouraged to talk to their co-workers, friends and families to promote the anti-litter message.

## 5. Consultation

5.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and the business community in terms of the regulatory duties of the Council. Any enforcement action[s] taken as a result of the contents of this report are subject to that Enforcement Policy.

## 6. Implications for Resources

6.1 The work identified in this report was undertaken within the resources available to your Committee.

## 7. Implications for Policy Priorities

7.1 The issue of fixed penalty notices has a direct impact on environmental degradation within the City and the Council's strategic outcome of staying safe in a clean, green city.

## 8. Public Sector Equality Duty

8.1 The actions identified in this report were taken in accordance with approved enforcement policies which ensure that equalities issues have been addressed.

## **ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: FPN records



APPENDIX 1  
Wards where FPN's are issued

Constituency	Ward	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Edgbaston	Bartley Green	0	0	0										0
	Edgbaston	0	0	0										0
	Harborne	0	0	0										0
	Quinton	0	0	0										0
Erdington	Erdington	0	1	0										1
	Kingstanding	0	1	0										1
	Stockland Green	0	0	2										2
	Tyburn	0	1	1										2
Hall Green	Hall Green	0	1	0										1
	Moseley And Kings Heath	2	0	0										2
	Sparkbrook	0	1	1										2
	Springfield	0	0	0										0
Hodge Hill	Bordesley Green	0	0	0										0
	Hodge Hill	0	0	0										0
	Shard End	1	4	0										5
	Washwood Heath	1	0	0										1
Ladywood	Aston	0	2	0										2
	Ladywood	459	436	256										1,151
	Nechells	5	3	0										8
	Soho	5	1	0										6
Northfield	Kings Norton	0	0	3										3
	Longbridge	0	1	0										1
	Northfield	2	0	0										2
	Weoley	2	0	0										2
Perry Barr	Handsworth Wood	0	0	1										1
	Lozells And East Handsworth	0	1	1										2
	Oscott	0	2	0										2
	Perry Barr	1	0	1										2
Selly Oak	Billesley	1	1	0										2
	Bournville	0	0	1										1
	Brandwood	0	0	0										0
	Selly Oak	0	0	1										1
Sutton Coldfield	Sutton Four Oaks	0	0	0										0
	Sutton New Hall	0	0	0										0
	Sutton Trinity	0	0	0										0
	Sutton Vesey	0	0	0										0
Yardley	Acocks Green	6	6	1										13
	Sheldon	0	1	0										1
	South Yardley	1	2	1										4
	Stechford And Yardley North	1	0	0										1
Total		487	465	270	0	0	0	0	0	0	0	0	0	1,222

## APPENDIX 2

## WARD OF PERSON RECEIVING FIXED PENALTY NOTICES BY CONSTITUENCY/WARD

It is not possible to provide this information currently and will be provided in the coming weeks

Constituency	Ward	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Edgbaston	BARTLEY GREEN													0
	EDGBASTON													0
	HARBORNE													0
	QUINTON													0
Erdington	ERDINGTON													0
	KINGSTANDING													0
	STOCKLAND GREEN													0
	TYBURN													0
Hall Green	HALL GREEN													0
	MOSELEY AND KINGS HEATH													0
	SPARKBROOK													0
	SPRINGFIELD													0
Hodge Hill	BORDESLEY GREEN													0
	HODGE HILL													0
	SHARD END													0
	WASHWOOD HEATH													0
Ladywood	ASTON													0
	LADYWOOD													0
	NECHELLS													0
	SOHO													0
Northfield	KINGS NORTON													0
	LONGBRIDGE													0
	NORTHFIELD													0
	WEOLEY													0
Perry Barr	HANDSWORTH WOOD													0
	LOZELLS AND EAST HANDSWORTH													0
	OSCOTT													0
	PERRY BARR													0
Selly Oak	BILLESLEY													0
	BOURNVILLE													0
	BRANDWOOD													0
	SELLY OAK													0
Sutton Coldfield	SUTTON FOUR OAKS													0
	SUTTON NEW HALL													0
	SUTTON TRINITY													0
	SUTTON VESEY													0
Yardley	ACOCKS GREEN													0
	SHELDON													0
	SOUTH YARDLEY													0
	STECHFORD AND YARDLEY NORTH													0
	Ward not recorded													0
OUTSIDE OF BIRMINGHAM	OUTSIDE BIRMINGHAM TOTAL													0
	Location not recorded	487	465	270										1,222
Grand Total		487	465	270	0	0	0	0	0	0	0	0	0	1,222

### APPENDIX 3

#### FIXED PENALTY NOTICES ISSUED TO PERSONS RESIDING OUTSIDE THE BIRMINGHAM AREA

It is not possible to provide this information currently and will be provided in the coming weeks

RESIDENCE OF FPN RECIPIENT	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Grand Total
Aberdeen (S)													0
Allerdale													0
Amber Valley													0
Argyll and Bute (S)													0
Arun													0
Ashford													0
Aylesbury Vale													0
Basildon													0
Basingstoke and Deane													0
Bassetlaw													0
Bath and North East Somerset													0
Bedford													0
Blaby													0
Blackpool													0
Bolton													0
Boston													0
Bracknell Forest													0
Braintree													0
Brentwood													0
Bridgend (W)													0
Brighton & Hove													0
Bristol													0
Bromsgrove													0
Broxtowe													0
Burnley													0
Bury													0
Caerphilly (W)													0
Cambridge													0
Cannock Chase													0
Cardiff (W)													0
Cardiganshire (W)													0
Castle Point													0
Central Bedfordshire													0
Ceredigion (W)													0
Charnwood													0
Chelmsford													0
Cheltenham													0
Cherwell													0
Cheshire East													0
Cheshire West and Chester													0

Chiltern														0
Chorley														0
City of Bradford														0
City of York														0
Copeland														0
Corby														0
Cornwall														0
Cotswold														0
County Durham														0
Coventry														0
Crawley														0
Darlington														0
Dartford														0
Daventry														0
Denbighshire (W)														0
Derby														0
Derbyshire Dales														0
Dover														0
Dudley														0
Dundee (S)														0
East Devon														0
East Dunbartonshire (S)														0
East Hampshire														0
East Hertfordshire														0
East Lindsey														0
East Northamptonshire														0
East Riding of Yorkshire														0
East Staffordshire														0
Eastleigh														0
Eden														0
Edinburgh (S)														0
Elmbridge														0
Epsom and Ewell														0
Erewash														0
Exeter														0
Fife (S)														0
Forest Heath														0
Forest of Dean														0
Fylde														0
Gateshead														0
Glasgow (S)														0
Gloucester														0
Guildford														0
Gwynedd (W)														0
Halton														0



Harrogate														0
Hartlepool														0
Herefordshire														0
Highland (S)														0
Hinckley and Bosworth														0
Hyndburn														0
Ipswich														0
Isle of Wight														0
Kettering														0
Kirklees														0
Lancaster														0
LB of Barking and Dagenham														0
LB of Barnet														0
LB of Brent														0
LB of Bromley														0
LB of Camden														0
LB of Croydon														0
LB of Ealing														0
LB of Enfield														0
LB of Greenwich														0
LB of Hackney														0
LB of Hammersmith and Fulham														0
LB of Haringey														0
LB of Harrow														0
LB of Havering														0
LB of Hounslow														0
LB of Islington														0
LB of Lambeth														0
LB of Lewisham														0
LB of Merton														0
LB of Newham														0
LB of Redbridge														0
LB of Richmond Upon Thames														0
LB of Southwark														0
LB of Sutton														0
LB of Tower Hamlets														0
LB of Waltham Forest														0
LB of Wandsworth														0
Leeds														0
Leicester														0
Lewes														0
Lichfield														0
Lincoln														0
Liverpool														0
Luton														0

Malvern Hills														0
Manchester														0
Mansfield														0
Medway														0
Mendip														0
Mid Devon														0
Mid Suffolk														0
Mid Sussex														0
Middlesbrough														0
Milton Keynes														0
Mole Valley														0
New Forest														0
Newark and Sherwood														0
Newcastle-under-Lyme														0
Newcastle-upon-Tyne														0
Newport (W)														0
North Devon														0
North Hertfordshire														0
North Lanarkshire (S)														0
North Norfolk														0
North Somerset														0
North Tyneside														0
North Warwickshire														0
North West Leicestershire														0
Northampton														0
Northumberland														0
Nottingham														0
Nuneaton and Bedworth														0
Oldham														0
Outside of UK														0
Oxford														0
Perth and Kinross (S)														0
Peterborough														0
Plymouth														0
Powys (W)														0
Preston														0
RB of Kensington and Chelsea														0
RB of Windsor and Maidenhead														0
Reading														0
Redcar and Cleveland														0
Redditch														0
Reigate and Banstead														0
Renfrewshire (S)														0
Richmondshire														0
Rochdale														0

Rugby														0
Rutland														0
Salford														0
Sandwell														0
Scarborough														0
Sefton														0
Sevenoaks														0
Sheffield														0
Shropshire														0
Slough														0
Solihull														0
South Buckinghamshire														0
South Derbyshire														0
South Gloucestershire														0
South Lanarkshire (S)														0
South Somerset														0
South Staffordshire														0
South Tyneside														0
Southampton														0
St Albans														0
St Helens														0
Stafford														0
Staffordshire Moorlands														0
Stevenage														0
Stirling (S)														0
Stockport														0
Stockton-on-Tees														0
Stoke-on-Trent														0
Stratford-on-Avon														0
Suffolk Coastal														0
Surrey Heath														0
Swansea (W)														0
Swindon														0
Tameside														0
Tamworth														0
Taunton Deane														0
Teignbridge														0
Telford and Wrekin														0
Tendring														0
Test Valley														0
Tewkesbury														0
Thanet														0
Tonbridge and Malling														0
Torbay														0
Torridge														0

Trafford														0
Tunbridge Wells														0
Uttlesford														0
Vale of Glamorgan (W)														0
Walsall														0
Warrington														0
Warwick														0
Watford														0
Wealden														0
West Berkshire														0
West Lothian (S)														0
West Oxfordshire														0
Wigan														0
Wiltshire														0
Winchester														0
Wirral														0
Woking														0
Wolverhampton														0
Worcester														0
Wrexham (W)														0
Wycombe														0
Wyre														0
Wyre Forest														0
(blank)														0
Outside Birmingham	0	0	0	0	0	0	0	0	0	0	0	0	0	0





**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**12 JULY 2017**  
**ALL WARDS**

**PROSECUTIONS AND CAUTIONS – MAY 2017**

1. Summary
  - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of May 2017.
2. Recommendation
  - 2.1 That the report be noted.

Contact Officer: Alison Harwood, Acting Director Regulation and Enforcement  
Telephone: 0121 303 0201  
E-Mail: [Alison.harwood@birmingham.gov.uk](mailto:Alison.harwood@birmingham.gov.uk)

### 3. Results

#### 3.1 During the month of May 2017 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- Four Licensing cases resulted in fines of £899. Prosecution costs of £1,184 were awarded with a total of 18 penalty points. 15 simple cautions were administered as set out in Appendix 1.
- 66 Environmental Health cases resulted in fines of £23,443 and a 12 month community order. Prosecution costs of £26,013.94 were awarded. Two simple cautions were administered as set out in Appendix 2.
- Three Trading Standards cases was finalised resulting in fines of £20,000 and prosecution costs of £7,802 were awarded. No simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in May 2017 and cases finalised by district April - May 2017.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team in April 2017.

### 4. Consultation

#### 4.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and business in terms of the regulation duties of the Council. Any enforcement action[s] taken as a result of the contents of this report are subject to that Enforcement Policy.

### 5. Implications for Resources

#### 5.1 Costs incurred in investigating and preparing prosecutions, including officers' time, the professional fees of expert witnesses etc. are recorded as prosecution costs. Arrangements have been made with the Magistrates Court for any costs awarded to be reimbursed to the City Council. Monies paid in respect of fines are paid to the Treasury.

#### 5.2 For the year April 2017 to May 2017 the following costs have been requested and awarded:

##### Licensing

£5,288 has been requested with £2,608 being awarded (49%)

##### Environmental Health

£53,834 has been requested with £49,209 being awarded (91%).

##### Trading Standards

£15,061 has been requested with £9,776 being awarded (64%).



- 5.3 For the month of May 2017 the following costs have been requested and awarded:

Licensing

£1,967 has been requested with £1,184 being awarded (60%)

Environmental Health

£29,976 has been requested with £26,013 being awarded (87%).

Trading Standards

£13,087 has been requested with £7,802 being awarded (59%).

6. Implications for Policy Priorities

- 6.1 The contents of this report contribute to the priority action of ensuring business compliance with legislation to protect the economic interests of consumers and businesses as contained in the Council Business Plan 2015+.

7. Public Sector Equality Duty

- 7.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Licensing and Public Protection Committee which ensures that equality issues have been addressed.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil

**LICENSING CASES****APPENDIX 1**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
1	11/5/17	Sultan Sorosh 31 Mayswood Grove Quinton Birmingham B32 2RG	Town Police Clauses Act 1847 & Road Traffic Act 1988.  Pleaded guilty to two offences: one of plying for hire in High Street, Harborne, Birmingham and one of consequently having invalid insurance.	£185 x No Insurance  + 6 penalty points  No separate penalty for plying  £135 costs (£452 requested)	Quinton	Harborne
2	11/5/17	Abdirahman Ahmed 35 Whisley Brook Lane Hall Green Birmingham B28 8SR	Equalities Act 2010.  Found guilty in his absence of one offence of failing to carry out a booking accepted by the operator, Excel Cars, as the disabled customer was accompanied by an assistance dog.	£440  £499 costs (£499 requested)	Hall Green	Springfield
3	25/5/17	Muhammed Idrees Kiyani 9 Truda Street Palfrey Walsall WS1 4LD	Town Police Clauses Act 1847 & Road Traffic Act 1988.  Pleaded guilty to two offences: one of plying for hire in Bromsgrove Street, Birmingham and one of consequently having invalid insurance.	£134 x No Insurance  + 6 penalty points  No separate penalty for plying  £250 costs (£524 requested)	Out of area	Nechells

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
4	25/5/17	Allah Ditta 1591 Stratford Road Hall Green Birmingham B28 9JB	Town Police Clauses Act 1847 & Road Traffic Act 1988.  Pleaded guilty to two offences: one of plying for hire in Bromsgrove Street, Birmingham and one of consequently having invalid insurance.	£140 x No Insurance  + 6 penalty points  No separate penalty for plying  £300 costs (£492 requested)	Hall Green	Nechells

## LICENSING SIMPLE CAUTIONS

During the period of May 2017, 15 simple cautions have been administered:

### Local Government (Miscellaneous Provisions) Act 1976

**Section 48(6)** Four cautions were issued for failing to display a private hire vehicle licence plate

**Section 50(3)** One caution was issued for failing to report an accident to Birmingham City Council

**Section 54(2)** Five cautions were issued for failing to wear a private hire driver's badge in a manner as to be plainly and distinctly visible

### Town Police Clauses Act 1847 Section 45 & Road Traffic Act 1988 Section 143

Two cautions were issued for plying for hire and driving without insurance

### Licensing Act 2003

**Section 136(1)(a)** Two cautions were issued for carrying on a licensable activity otherwise than in accordance with an authorisation

**Byelaw 26 of the Birmingham City Council Hackney Carriage Byelaws 2008 made under section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1875** One caution was issued for failing to display a hackney carriage drivers badge and hackney carriage fare table in a position and manner as to be plainly and distinctly visible

FOOD HYGIENE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	5/5/17	VIP Stores Ltd 52A Lozells Road Birmingham B19 2TJ	Food Safety & Hygiene (England) Regulations 2013 Environmental Protection Act 1990  Pleaded guilty to two offences; one offence of failing to produce written information relating to the transfer of waste from premises at Select & Save VIP Stores, 52A Lozells Road, Birmingham within 7 days and one offence of failing to comply with a hygiene improvement notice requiring a permanent procedure or procedures to be put in place based on the HACCP principles.	£4,000  £1,000 costs (£1,103 requested)	Aston	Aston
2	24/5/17	Carlos Sheibani Somerford Middlewich Road Allostock Knutsford WA16 9JX	Food Safety & Hygiene (England) Regulations 2013  Pleaded guilty to four offences relating to conditions at The Flamin Chicken, 10 Alum Rock Road, Birmingham on two separate occasions. There were no procedures in place to control pests, mouse droppings were found throughout the premises and there were no procedures in place based on the HACCP principles.	Total £4,800 (£1,200 x 4)  £4,500 costs (£4,500 requested)	Out of area	Washwood Heath
3	25/5/17	Kalim Hussain 202 Frederick Road Birmingham B6 6DG	Food Safety & Hygiene (England) Regulations 2013  Pleaded guilty to 12 offences relating to conditions at Broadway 3, 237-239 Witton	12 month Community Order with 20 day Rehabilitation Activity	Aston	Aston

			Road, Birmingham. There was evidence of mouse activity throughout the premises, a bag of pasta in the store room had been damaged by pest activity, the premises was not kept clean and fittings and equipment which food comes into contact with were not effectively cleaned. The floor and food surfaces, food packaging and a chest freezer were littered with mouse droppings. The rear door to the premises was left open and there was a hole in the suspended ceiling tile in the preparation room. There were no procedures based on HACCP. Food handlers were not supervised, instructed or trained in food hygiene matters.	Requirement. £1,030 costs (£2,079 requested)		
4	25/5/17	Muhammed Ayaz T/A Jav Kebabish 41 Colonial Road Birmingham B9 5NR	Food Safety & Hygiene (England) Regulations 2013 Health & Safety at Work etc Act 1974  Pleaded guilty to 12 offences relating to conditions at Jav Kebabish, 172-174 Slade Road on two separate occasions. There were no procedures in place to control pests and the premises were not kept clean. Cooked foods on display for sale were not kept at the correct temperatures and a panini maker was filthy with remnants of old dried on food debris. Live copper conductors were exposed from a broken light switch from a broken plug. There were cracks along the ceiling where food was prepared allowing waste water to drip through. A foul water inspection chamber had been left open posing a risk of contamination to food.	£2,140  £1,885 costs (£1,885 requested)	Bordesley Green	Stockland Green

## **WASTE OFFENCES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
1	11/5/17	Clive Orville Dupont 12 Francis Road Yardley Birmingham B25 8HP	Environmental Protection Act 1990  Pleaded guilty to two offences; one offence of depositing controlled waste, namely a number of black sacks containing empty tins of dog food and an ironing board, on Brickfield Road, Birmingham and one offence of failing to comply with a notice requiring written details to be provided of the person in charge of vehicle registration number YX04 BAA on 9th October 2016 when the waste was deposited.	Total £535  £152 costs (£1,001 requested)  £160.50 – clean-up costs (£160.50 requested)	South Yardley	South Yardley
2	11/5/17	James Evans 11 Cherry Walk Hollywood Birmingham B47 5RL	Environmental Protection Act 1990  Pleaded guilty to one offence of being in control of a Vauxhall Vivaro van which was used to deposit controlled waste, namely roof tiles, in a skip at 186 Dawlish Road, Selly Oak, Birmingham	£116  £340 costs (£732 requested)	Out of area	Selly Oak
3	15/5/17	Apna Food & Wines Ltd 2 Wheeleys Road Birmingham B15 2LD	Environmental Protection Act 1990  Pleaded guilty to one offence of failing to comply with a demand requiring information on how Apna Food & Wines, 238 Albert Road, Birmingham, disposes of its business waste.	£160  £1,407 costs (£1,407 requested)	Edgbaston	Lozells & East Handsworth
4	17/5/17	Aejaz Ahmed 90 Swanshurst Lane Birmingham B13 0AL	Prevention of Damage by Pests Act 1949  Pleaded guilty to one offence of failing to comply with a notice requiring the removal of rubbish from the rear garden of 12	Total £1,900  A Ahmed fined £900 £1,060 costs	Springfield	Nechells

		Umar Ahmed 90 Swanshurst Lane Birmingham B13 0AL	Talfourd Street, Birmingham and to cut back and remove all overgrowth from the land and eradicate all rats.  Found guilty of one offence in his absence of failing to comply with a notice requiring the removal of rubbish from the rear garden of 12 Talfourd Street, Birmingham and to cut back and remove all overgrowth from the land and eradicate all rats	U Ahmed fined £1,000 £1,060 costs  (£2,120 requested)		
5	19/5/17	Adnan Hussain Shah 784 Coventry Road Nechells Birmingham B10 0TX	Prevention of Damage by Pests Act 1949  Pleaded guilty to one offence of failing to comply with a notice requiring the eradication of rodents and removal of waste from land at the rear of 15 Broad Road, Acocks Green, Birmingham	£83  £340 costs (£680 requested)  £2,759.44 clean-up costs (£2,759.44 requested)	Bordesley Green	Acocks Green

#### **ANIMAL WELFARE OFFENCES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
1	5/5/17	Amina Bibi 275 Heather Road Small Heath Birmingham B10 9BE	Animal Welfare Act 2006  Pleaded guilty to one offence of being the person responsible for an animal, namely a cross breed dog, and failing to take all reasonable steps to ensure that the needs of the animal were met.	£120  £1,070 costs (£1,070 requested)	Bordesley Green	Bordesley Green

2	11/5/17	Kerry Appleby 5 Blakesley Mews Yardley Birmingham B25 8TU	The Microchipping of Dogs (England) Regulations 2015 made under the Animal Welfare Act 2006  Pleaded guilty to one offence of being the owner of a dog and failing to comply with a notice requiring the home address to be amended on the microchipping database within 21 days.	£40  £160 costs (£319 requested)	South Yardley	South Yardley
3	11/5/17	Samantha Trenfield 604 Kings Road Oscott Birmingham B44 9JB	The Microchipping of Dogs (England) Regulations 2015 made under the Animal Welfare Act 2006  Pleaded guilty to one offence relating to the sale of a Chihuahua puppy which had not been micro chipped.	£220  £450 costs (£450 requested)	Oscott	Oscott

### **LITTERING OFFENCES**

	<b>Date Case Heard</b>	<b>Name &amp; Address</b>	<b>Offence details (including Legislation)</b>	<b>Fine/Penalty &amp; Costs</b>	<b>Ward of defendant</b>	<b>Ward - Offence committed</b>
1	5/5/17	Ataur Rahman 475 Simmons Drive Quinton Birmingham B32 2UJ	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£50  No costs awarded (£175 requested)	Quinton	Ladywood
2	5/5/17	Jennifer Stuart Flat 3 Serenity 32 Moss Lane Manchester M33 6BE	Environmental Protection Act 1990  Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
3	5/5/17	Giao Zhang 72a Berkeley Road South Coventry CV6 6EE	Environmental Protection Act 1990  Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New	£220  £175 costs (£175 requested)	Out of area	Ladywood



			Street, Birmingham.			
4	5/5/17	Constantine Ionascu 207 Hatters Hostel 92-95 Hatters Hostel Birmingham B3 1RJ	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Ladywood	Ladywood
5	5/5/17	Sorina Loredana Fieraru 15 Fashoda Road Birmingham B29 7QB	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Corporation Street, Birmingham.	£220  £175 costs (£175 requested)	Selly Oak	Ladywood
6	5/5/17	Octavian Dumitru 10 Ryman Road Birmingham B34 6BT	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Hodge Hill	Ladywood
7	5/5/17	Irinder Dulai Apartment 221 Derwent Foundary 5 Mary Ann Street Birmingham B3 1BG	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220  £175 costs (£175 requested)	Ladywood	Ladywood
8	5/5/17	Jack Chalmers 44 Chestnut House Birmingham B37 7TB	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
9	5/5/17	Bargash Mohammed Alnaimi Apartment 49 Albion Street Wolverhampton WV1 3EB	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Temple Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood

10	5/5/17	Hamza Ali 25 Holmsdale Road Coventry CV6 5BL	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
11	5/5/17	Jacqueline Ann Ellis 55 Quince Tamworth B77 4EN	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£80  £100 costs (£175 requested)	Out of area	Ladywood
12	5/5/17	Havel Sheko Ali 130 Romney Avenue Bristol BS7 9TJ	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£50  No costs awarded (£175 requested)	Out of area	Ladywood
13	5/5/17	Mark Adlington 17 Ipswich Crescent Great Barr Birmingham B42 1LY	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£146  £100 costs (£175 requested)	Perry Barr	Ladywood
14	8/5/17	David James McKenzie 3 Mount Pleasant Wardington Banbury OX17 1SL	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Temple Street, Birmingham.  Originally listed for trial	£80  £240 costs (£436 requested)	Out of area	Ladywood
15	11/5/17	Katie Chinn 50 Thulestone Road Longbridge Birmingham B31 4LS	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£40  £70 costs (£175 requested)	Northfield	Ladywood

16	11/5/17	Geoageta Ciucure 189A Wooley Avenue Selly Oak Birmingham B8 1QL	Environmental Protection Act 1990  Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Washwood Heath	Ladywood
17	11/5/17	Rebecca Elena Ciucure 189A Wooley Avenue Selly Oak Birmingham B8 1QL	Environmental Protection Act 1990  Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Washwood Heath	Ladywood
18	11/5/17	Lisa Briggs 71 Beech Road Birmingham B23 5QJ	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Union Street, Birmingham.	£95  £175 costs (£175 requested)	Erdington	Ladywood
19	11/5/17	Kristianne Jones 15 Trigo Croft Bromford Birmingham B36 8SB	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.	£65  £80 (£175 requested)	Hodge Hill	Ladywood
20	11/5/17	Jordan Lunn 20 Farnhurst Road Bromford Birmingham B36 8HT	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£50 No costs awarded (£175 requested)	Hodge Hill	Ladywood
21	11/5/17	Samantha Marie Marsh 15 Beeches Road Rowley Regis West Midlands B65 0BB	Environmental Protection Act 1990  Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
22	11/5/17	Alice Stubbs 5 Charminster Road Fishponds	Environmental Protection Act 1990  Found guilty in her absence of one offence of	£220  £175 costs	Out of area	Ladywood

		Bristol BS16 3QZ	dropping a cigarette butt on the pavement in New Street, Birmingham.	(£175 requested)		
23	11/5/17	Claudiu Vrancianu 88 Gibson Road Birmingham B20 3UD	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£85  £175 costs (£175 requested)	Lozells & East Handsworth	Ladywood
24	11/5/17	Ella Catherine Walker 37 Sheldon Hall Avenue Birmingham B33 0ER	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£100  £175 costs (£175 requested)	Shard End	Ladywood
25	19/5/17	Pamela Sellars 21 Thompson Gardens Smethwick West Midlands B67 6RX	Environmental Protection Act 1990  Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
26	19/5/17	Shakira Williams Flat 17 93 Northmoor Road Manchester M12 5RT	Environmental Protection Act 1990  Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
27	19/5/17	Jasvena Mehmi 84 Friary Road Handsworth Birmingham B20 1BB	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£83  £175 costs (£175 requested)	Handsworth Wood	Ladywood
28	19/5/17	Aksa Hussain 76 Burlington Road Birmingham B10 9PA	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£83  £175 costs (£175 requested)	Bordesley Green	Ladywood

29	19/5/17	Diane O'Connor 106 Dreghorn Road Birmingham B36 8LN	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£83  £175 costs (£175 requested)	Hodge Hill	Ladywood
30	19/5/17	Sean Daniel Nutley 9 Kingswood Heights Queen Mary Avenue London E18 2FP	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
31	19/5/17	Joon Park 5 Hawthorn Drive Selly Oak Birmingham B29 5BZ	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in St Martins Queensway, Birmingham.	£220  £175 costs (£175 requested)	Weoley	Ladywood
32	19/5/17	Jacek Grzegarz Chechlac 11 Damson Wharf Tipton Dudley DY4 7UL	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Moor Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
33	19/5/17	James Clark 17 Claythorn Avenue Glasgow G40 2LT	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
34	19/5/17	Caroline Marilyn Coughlin 208 Lyng Lane West Bromwich B70 7RQ	Environmental Protection Act 1990  Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
35	19/5/17	Rashid Mohammed Hadidi 203 Albion Street	Environmental Protection Act 1990  Found guilty in his absence of one offence of	£220  £175 costs	Out of area	Ladywood

		Wolverhampton WV1 3EJ	dropping a cigarette butt on the pavement in Temple Street, Birmingham.	(£175 requested)		
36	19/5/17	Ensanullah Jabarkhel 98a Vernons Lane Nuneaton Warwickshire CV10 8AA	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bull Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
37	19/5/17	Armando Mirone 37 Pollard Road Acocks Green Birmingham B27 7EG	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220  £175 costs (£175 requested)	Acocks Green	Ladywood
38	19/5/17	Ali Mohammed Naimi Apartment 49 Albion Street Wolverhampton WV1 3EB	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Temple Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
39	25/5/17	Craig Cook 14 Tamworth Close Brownhills Walsall WS8 7QH	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
40	25/5/17	Max Yang Apartment 80 St Johns Walk Birmingham B5 4TN	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Nechells	Ladywood
41	25/5/17	Hasan Aly Hasan Alsabaghah 69 Island Apartments 41 Essex Street Birmingham B5 4TL	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220  £175 costs (£175 requested)	Nechells	Ladywood

42	25/5/17	Gunita Batalova 94 Paynes Lane Coventry CV1 5LJ	Environmental Protection Act 1990  Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
43	25/5/17	Artis Batalovs 94 Paynes Lane Coventry CV1 5LJ	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
44	25/5/17	Matthew Foyster 1 Ashgate Close Sheffield S10 3DL	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Out of area	Ladywood
45	25/5/17	Georeta Jilca 35 Paddington Road Birmingham B21 0AR	Environmental Protection Act 1990  Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in High Street, Birmingham.	£220  £175 costs (£175 requested)	Soho	Ladywood
46	25/5/17	Kerry McMahon 15 Brockwell Road Great Barr Birmingham B44 9PF	Environmental Protection Act 1990  Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Union Street, Birmingham.	£220  £175 costs (£175 requested)	Oscott	Ladywood
47	25/5/17	Kerrie O'Sullivan Flat 26 Auckland House Welsh House Farm Road Birmingham B32 2NE	Environmental Protection Act 1990  Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Edmund Street, Birmingham.	£220  £175 costs (£175 requested)	Quinton	Ladywood
48	25/5/17	Charlotte Tamarit Sanchez 29 Crosby Close	Environmental Protection Act 1990  Found guilty in her absence of one offence of	£220  £175 costs	Ladywood	Ladywood

		Birmingham B1 2QB	dropping a cigarette butt on the pavement in Broad Street, Birmingham.	(£175 requested)		
49	25/5/17	Florin Tomescu 184 Nineveh Road Handsworth Birmingham B21 0TB	Environmental Protection Act 1990  Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220  £175 costs (£175 requested)	Soho	Ladywood
50	25/5/17	Codrut Gheorghe Adam 25 Cann Hall Drive Bridgenorth Wolverhampton WV15 5BG	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£146  £175 costs (£175 requested)	Out of area	Ladywood
51	25/5/17	Giles Knox Quenington Court Church Road Quenington Gloucestershire GL7 5BN	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£153  £175 costs (£175 requested)	Out of area	Ladywood
52	25/5/17	Reece Letherland 5 Wellington Street Cradley Heath West Midlands B64 5NF	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Newhall Street, Birmingham.	£80  £175 costs (£175 requested)	Out of area	Ladywood
53	25/5/17	David Mann 27 Steatham Grove Kingstanding Birmingham B44 0UD	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£80  £175 costs (£175 requested)	Kingstanding	Ladywood
54	25/5/17	Anwar Nasrollah 1 Berners Street Birmingham B19 2DR	Environmental Protection Act 1990  Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Corporation	£80  £175 costs (£175 requested)	Lozells & East Handsworth	Ladywood



			Street, Birmingham.			
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#### **ENVIRONMENTAL HEALTH SIMPLE CAUTIONS**

Two simple cautions were administered during May 2017.

#### **Food Safety and Hygiene (England) Regulations 2013**

Two cautions were issued for failing to comply with food hygiene regulations

# TRADING STANDARDS

# APPENDIX 3

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	15/5/17	<p>Aamer Nawaz Malik 60 Key Hill Hockley Birmingham B18 5NX</p> <p>Cars &amp; Cars Ltd 60 Key Hill Hockley Birmingham B18 5NX</p>	<p>Consumer Protection from Unfair Trading Regulations 2008 &amp; Road Traffic Act 1988</p> <p>Both defendants pleaded <u>not guilty</u> to two offences relating to the sale of a VW Golf vehicle from 60 Key Hill, Hockley, Birmingham: one of advertising the vehicle as "condition is good" when in fact the vehicle was dangerous and unroadworthy and one offence of failing to rectify the known faults of the vehicle. The company pleaded <u>not guilty</u> to a further offence of supplying the vehicle in an unroadworthy condition to a member of the public</p> <p>Found guilty following trial.</p>	<p>Total £2,500</p> <p>Director fined £2,000 and banned from being a Company Director for 5 years.</p> <p>Company fined £500</p> <p>No costs awarded (£5,285 requested)</p>	Ladywood	Ladywood
2	25/5/17	<p>Chaudhrys Cash &amp; Carry Limited 350 Coventry Road Birmingham B10 0XE</p> <p>Mohammed Zaman Chaudhry 153 Hampton Lane Solihull B91 2RS</p> <p>Mohammed Dilpazir</p>	<p>General Product Safety Regulations 2005 &amp; Cosmetic Products Enforcement Regulations 2013</p> <p>The company pleaded guilty to 10 offences of being a distributor: and making products available on the market at Chaudhry's Cash and Carry, 350-354 Coventry Road, Birmingham; two of having products exposed for supply which were found to contain lead and eight offences of having</p>	<p>Total £13,000</p> <p>Company fined £3,500 x 1<sup>st</sup> lead offence</p> <p>£2,500 x 1<sup>st</sup> labelling offence</p> <p>No separate penalty for remaining offences</p>	Nechells	Nechells

		Chaudhry 350-354 Coventry Road Small Heath Birmingham B10 0XE	<p>cosmetic products in possession for supply, including Henna hair dye and Henna paste, which failed to comply with labelling requirements in that the packaging failed to display the required information.</p> <p>Mohammed Zaman Chaudhry, Director, pleaded guilty to two offences of having products exposed for supply which were found to contain lead.</p> <p>Mohammed Dilpazir Chaudhry, Director, pleaded guilty to eight offences of having cosmetic products in possession for supply which failed to comply with labelling requirements in that the packaging failed to display the required information.</p>	<p>£2,802 costs (£2,802 requested)</p> <p>Both Directors fined £3,500 each</p> <p>Forfeiture granted for seized items</p>		
3	26/5/17 Birmingham Crown Court	Meet UK Ltd 49 Great Hampton Street Hockley Birmingham B18 6EL	<p>Trade Marks Act 1994</p> <p>Pleaded guilty to six offences of having in possession goods, namely watches, sunglasses and purses, at Kings Watches, 49 Great Hampton Street, Birmingham which bore the registered trademarks of Apple, ICE, Chanel, Louis Vuitton and Michael Kors, without the consent of the trade mark holders.</p>	<p>Total £4,500 (£750 x 6)</p> <p>£5,000 costs (£5,000 requested)</p> <p>Forfeiture granted for seized items</p>	Aston	Aston

### **TRADING STANDARDS SIMPLE CAUTIONS**

No simple cautions were administered during May 2017.

**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – MAY 2017**

<b><u>WARDS &amp; CONSTITUENCIES FINALISED BY OFFENCE</u></b>				
	<b><u>Licensing</u></b>	<b><u>Environmental Health - Non FPNs</u></b>	<b><u>Environmental Health - FPNs</u></b>	<b><u>Trading Standards</u></b>
<b>EDGBASTON</b>				
Bartley Green				
Edgbaston				
Harborne	1			
Quinton				
<b>ERDINGTON</b>				
Erdington				
Kingstanding				
Stockland Green		1		
Tyburn				
<b>HALL GREEN</b>				
Hall Green				
Moseley & Kings Heath				
Sparkbrook				
Springfield	1			
<b>HODGE HILL</b>				
Hodge Hill				
Washwood Heath		1		
Bordseley Green		1		
Shard End				
<b>LADYWOOD</b>				
Aston		2		1
Ladywood			54	1
Nechells	2	1		1
Soho				

<b>NORTHFIELD</b>				
Kings Norton				
Longbridge				
Northfield				
Weoley				
<b>PERRY BARR</b>				
Lozells & East Handsworth		1		
Handsworth Wood				
Oscott		1		
Perry Barr				
<b>SELLY OAK</b>				
Billesley				
Bournville				
Bradwood				
Selly Oak		1		
<b>SUTTON COLDFIELD</b>				
Sutton Four Oaks				
Sutton New Hall				
Sutton Trinity				
Sutton Vesey				
<b>YARDLEY</b>				
Acocks Green		1		
Sheldon				
South Yardley		2		
Stechford & North Yardley				
<b>OUT OF AREA</b>				
<b>TOTAL</b>	4	12	54	3

**CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE ) – MAY 2017**

WARDS & CONSTITUENCIES - FINALISED BY DEFENDANT'S ADDRESS					
		<u>Licensing</u>	<u>Environmental Health - non FPNs</u>	<u>Environmental Health - FPNs</u>	<u>Trading Standards</u>
<b>EDGBASTON</b>					
Bartley Green					
Edgbaston			1		
Harborne					
Quinton		1		2	
<b>ERDINGTON</b>					
Erdington				1	
Kingstanding				1	
Stockland Green					
Tyburn					
<b>HALL GREEN</b>					
Hall Green		2			
Moseley & Kings Heath					
Sparkbrook					
Springfield			1		
<b>HODGE HILL</b>					
Hodge Hill				4	
Washwood Heath				2	
Bordseley Green			3	1	
Shard End				1	
<b>LADYWOOD</b>					
Aston			2		1
Ladywood				3	1
Nechells				2	1
Soho				2	

<b>NORTHFIELD</b>					
Kings Norton					
Longbridge					
Northfield			1		
Weoley			1		
<b>PERRY BARR</b>					
Lozells & East Handsworth			2		
Handsworth Wood			1		
Oscott		1	1		
Perry Barr			1		
<b>SELLY OAK</b>					
Billesley					
Bournville					
Bradwood					
Selly Oak			1		
<b>SUTTON COLDFIELD</b>					
Sutton Four Oaks					
Sutton New Hall					
Sutton Trinity					
Sutton Vesey					
<b>YARDLEY</b>					
Acocks Green			1		
Sheldon					
South Yardley		2			
Stechford & North Yardley					
<b>OUT OF AREA</b>		1	2	26	
<b>TOTAL</b>		4	12	54	3

### **CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – MAY 2017**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	1		2	0	0	0	0	0	0	<b>4</b>
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	54	0	0	0	0	0	0	<b>54</b>
Environmental Health (non FPNs)	0	1	0	2	3	0	2	1	0	3	0	<b>12</b>
Trading Standards	0	0	0	0	3	0	0	0	0	0	0	<b>3</b>

### **CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – MAY 2017**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	2	0	0	0	0	0	0	0	1	<b>4</b>
Environmental Health (FPNs) Not paid and prosecuted	2	2	0	8	7	2	5	1	0	1	26	<b>54</b>
Environmental Health (non FPNs)	1	0	1	3	2	0	1	0	0	2	2	<b>12</b>
Trading Standards	0	0	0	0	3	0	0	0	0	0	0	<b>3</b>



**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL - MAY 2017**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	1		2	2	0	0	0	2	0	<b>8</b>
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	102	0	0	0	0	0	0	<b>102</b>
Environmental Health (non FPNs)	0	2	1	2	7	2	4	1	0	5	0	<b>24</b>
Trading Standards	0	0	0	0	3	0	0	0	0	1	0	<b>4</b>

**CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL - MAY 2017**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	3	2	0	1	0	0	0	0	1	<b>8</b>
Environmental Health (FPNs) Not paid and prosecuted	5	3	2	12	12	3	8	3	0	2	52	<b>102</b>
Environmental Health (non FPNs)	2	1	2	4	6	1	3	0	0	2	3	<b>24</b>
Trading Standards	0	0	0	0	3	0	0	0	0	1	0	<b>4</b>

**WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY**  
**APRIL 2017 – MARCH 2018**

	Apr-17	Total 2017/2018
<b>Waste Investigation Outcomes</b>		
Investigations into commercial waste disposal suspected offences and offences	23	<b>23</b>
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	20	<b>20</b>
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	11	<b>11</b>
<u>Section 87 Environmental Protection Act.</u> Fixed Penalty notices issued for commercial and residential litter offences (£80)	5	<b>5</b>
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)	4	<b>4</b>
<b>Prosecutions</b>		
Number of prosecution files submitted to legal services (number produced quarterly)		<b>0</b>

**BIRMINGHAM CITY COUNCIL**

**LICENSING AND PUBLIC PROTECTION COMMITTEE**

**12 JULY 2017**

**SCHEDULE OF OUTSTANDING MINUTES**

<b>MINUTE NO./DATE</b>	<b>SUBJECT MATTER</b>	<b>COMMENTS</b>
651 (iii) 20/04/2016	<b><u>Proposals for Vehicle Emission Standards for Hackney Carriage and Private Hire Vehicles</u></b> – That officers engage with the neighbouring West Midlands Licensing Authorities to discuss proposals for a regional emissions standard for hackney carriages and private hire vehicles.	Date to be agreed
811 (ii) 15/02/2017	<b><u>Update Report On Unauthorised Encampments</u></b> – The Acting Service Director of Regulation and Enforcement be requested to report further in three months' time to update on the various work items contained within this report.	See agenda item No.8
846 12/04/2017	<b><u>Non-attendance of Drivers at Sub-Committees</u></b> – The Acting Service Director of Regulation and Enforcement be requested to report on the options for charging drivers for non attendance.	Report due in September 2017
866 (ii) 21/06/2017	<b><u>'Brexit'</u></b> – That the Acting Director of Regulation and Enforcement report on how 'Brexit' may affect the Committees work, especially around legislation that is currently European legislation and may have no effect after 'Brexit'.	Report due in December 2017

